

ORDINANCE NO. 18-1127

AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE,  
AMENDING THE ZONING MAP TO REZONE PROPERTIES LOCATED AT 621  
LULLWATER ROAD, HAMILTON COUNTY TAX PARCEL 117N A 007, 637  
LULLWATER ROAD, HAMILTON COUNTY TAX PARCEL 117N A 002 AND AN  
UNADDRESSED PROPERTY AT HAMILTON COUNTY TAX PARCEL 117N A 006,  
FROM R-1 RESIDENTIAL AND R1-A RESIDENTIAL TO R-T/Z TOWNHOUSE / ZERO  
LOT LINE

**WHEREAS**, *Tennessee Code Annotated* (TCA) § 13-7-201 allows municipal governments the authority to regulate land use through zoning of its jurisdictional territory; and

WHEREAS the Red Bank municipal planning commission has certified zoning districts as provided for in TCA § 13-7-202; and

WHEREAS TCA §13-7-204 authorizes amendments to the municipal zoning map and provides for that process; and

WHEREAS the rezoning of the subject property to the R-T/Z zoning district would allow for development that promotes the goals of the Red Bank 2020 Land Use Plan; and

WHEREAS the applicant, Michael Cinelli, has requested that his three properties on Lullwater Road be rezoned from R-1 and R1-A to R-T/Z; and

WHEREAS the legal description for said properties are included in Exhibit A within Deed Book 11342 Page 336, Deed Book 11289 Page 483 and Deed Book 11307 Page 794; and

WHEREAS the Red Bank Planning Commission provided an opportunity for citizens to submit comments in favor of or against the proposed rezoning at an advertised public hearing held in conjunction with its regular meeting on June 21, 2018; and

WHEREAS, the Planning Commission recommended approval as it is consistent with and promotes the goals of the Red Bank 2020 Land Use plan; and

WHEREAS the City Commission heard a presentation by the owner describing the intended usage of the property contingent upon the application being approved and provided an opportunity for citizens to submit comments in favor of or against the proposed rezoning at an advertised public hearing on August 7, 2018 prior to the final reading of this ordinance; and

WHEREAS the City Commission finds that the proposed development afforded by the rezoning request would not have a negative impact on adjacent properties and is consistent with and promotes the goals of the Red Bank 2020 Land Use Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RED BANK, TENNESSEE, AS FOLLOWS:

Section 1. The Zoning Ordinances and Zoning Maps of this City are hereby amended by rezoning the three properties located at 621 Lullwater Road and 637 Lullwater Road and the single referenced but unaddressed property on Lullwater Road, shown in Exhibit B as Hamilton County tax parcel numbers 117N A 007, 117N A 006, and 117N A 002, from R-1 Residential and R1-A Residential to R-T/Z Townhouse/Zero Lot Line.

Section 2. Upon the adoption of this Ordinance, the Zoning maps of the City shall be amended and revised to reflect the rezoning of the three parcels as is specified herein.

BE IT FURTHER ORDAINED that every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not affect or impair any other section, sentence, clause, or phrase.

FINALLY, BE IT ORDAINED that this ordinance shall take effect from and after the date of its final passage, the public welfare of the City of Red Bank, Tennessee requiring it.

\_\_\_\_\_  
Mayor John Roberts

ATTEST:

\_\_\_\_\_  
City Recorder Ruth Rohen

**September 4, 2018**  
Approved on First Reading

**September 18, 2018**  
Approved on Second and Final Reading

Approved as to Form:

\_\_\_\_\_  
City Attorney

## EXHIBIT A. Legal Description

### Deed Book 11342 Page 336

IN THE THIRD CIVIL DISTRICT OF HAMILTON COUNTY, TENNESSEE:

BEGINNING on the Western line of Lullwater Road at the North end of the Cemetery Wall which marks the Northeast corner of the Jewish Cemetery, as shown by Deed of record in Book C, Volume 29, Page 676, in the Register's Office of Hamilton County, Tennessee; thence North along the West line of Lullwater Road 28 degrees East 332 feet to an iron pipe located in the Northeast corner of a six-acre tract, which is the beginning point; thence from this beginning point, on the same course along the Western line of Lullwater Road 100 feet to a stake; thence North 62 degrees West on a line 100 feet distant from and parallel to the North line of said six-acre tract 850 feet, more or less, to a point where said line intersects with the Western line of said six-acre tract, extended Northwardly; thence South 14 degrees 30 minutes West on a straight line 105 feet, more or less, to a point marking the Northwest corner of said six-acre tract; thence along the Northern line of said six-acre tract South 62 degrees East 847.5 feet, more or less, to the point of beginning.

LESS AND EXCEPT that property conveyed by Deed recorded in Book 2827, Page 13, in the Register's Office of Hamilton County, Tennessee.

REFERENCE is made for prior title to Deeds recorded in Book 8012, Page 40 and Book 8649, Page 45, in the Register's Office of Hamilton County, Tennessee.

Tax Parcel No. 117N-A-007

Subject to restrictions recorded in Book 944, Page 117, in the Register's Office of Hamilton County, Tennessee, but omitting and not republishing any covenant, condition, restriction, or limitation to the extent that the specific covenant, condition, restriction, or limitation violates state or federal law based on race, color, religion, sex, sexual orientation, gender identity, handicap, familial status, or national origin.

Subject to Governmental zoning and subdivision ordinances or regulations in effect thereon.

Taxes for the year 2018 are assumed by the Grantee herein.

### Deed Book 11289 Page 485

IN THE THIRD CIVIL DISTRICT OF HAMILTON COUNTY, TENNESSEE:

BEGINNING at a stake in the Western line of Lullwater Road, 432 feet North 28 degrees East from the North end of the Jewish Cemetery wall, which beginning point also is located at the Northeast corner of a two (2) acre tract designated as the "Second Tract" in Deed to John B. Shropshire and wife, dated April 24, 1946; thence from this beginning point on the same course Northward along the Western line of Lullwater Road a distance of 100 feet; thence North 62 degrees West on a line parallel to and 100 feet distant from the North line of said "Second Tract" a distance of 885.5 feet; thence South 30 degrees 27 minutes West 100 feet, more or less, to a stake in the Northwest corner of said Shropshire "Second Tract"; thence South 62 degrees East along the Northern line of said Shropshire "Second Tract" a distance of 889.8 feet, more or less, to the point of beginning and being Lot Thirty-four (34) of a Private Plat dated March 8, 1946 and prepared by E. G. Murrell, Engineer.

LESS AND EXCEPT that part sold to Tennessee Department of Transportation in Book 3144, Page 765, in the Register's Office of Hamilton County, Tennessee.

REFERENCE is made for prior title to Deed recorded in Book 6200, Page 946, in the Register's Office of Hamilton County, Tennessee.

Tax Parcel No. 117N-A-006

Subject to restrictions recorded in Book 944, Page 117, in the Register's Office of Hamilton County, Tennessee, but omitting and not republishing any covenant, condition, restriction, or limitation to the extent that the specific covenant, condition, restriction, or limitation violates state or federal law based on race, color, religion, sex, sexual orientation, gender identity, handicap, familial status, or national origin.

Subject to controlled access as set out in Book 3144, Page 765, in the Register's Office of Hamilton County, Tennessee.

Subject to Governmental zoning and subdivision ordinances or regulations in effect thereon.

Taxes for the year 2018 are assumed by the Grantee herein.

### Deed Book 11307 Page 794

In the Third Civil District of Hamilton County, Tennessee:

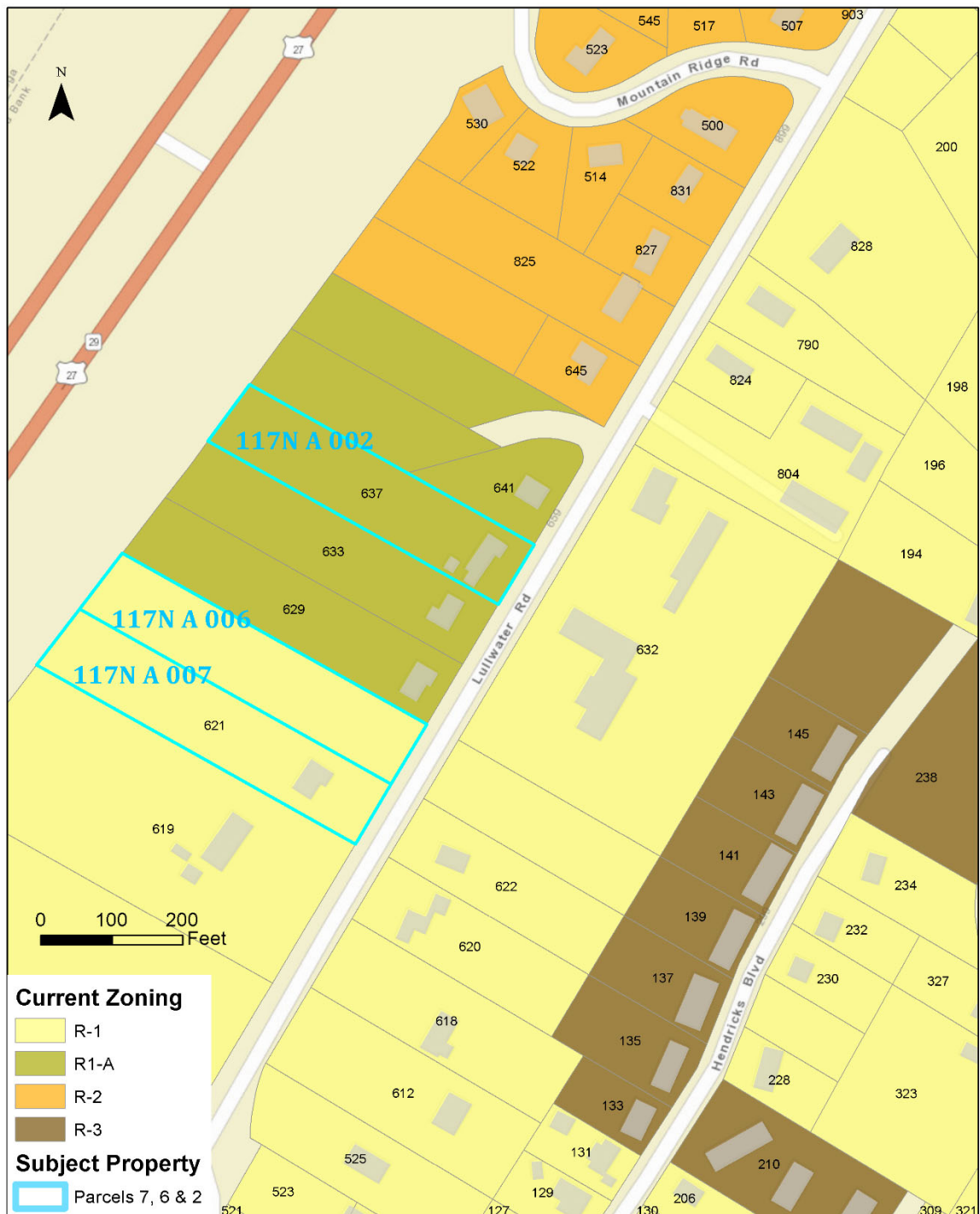
Lot Thirty-Seven (37), Suburban Estates, as shown on the Map of Survey by E. F. Murrell dated March 8, 1946, on Lullwater Road Property. According to said survey, said lot fronts 200 feet on the Northwestern line of said Lullwater Road and extends Northwesterwardly (about North 62 degrees West) between parallel lines that are parallel to the Northern or Northeastern line of the property conveyed to Ed W. Fryar and Sarah Shropshire on September 14, 1946, 810 feet, more or less, to the Northwestern line of said Subdivision. Its Southeastern corner is 200 feet Northeastwardly along said Lullwater Road from the Northeastern corner of said Fryar and Shropshire tract and 723 feet from the Northern end of the Old Cemetery Wall; said beginning point is the Northeastern corner of the property conveyed R. L. Gadd and K. T. Shropshire on July 16, 1952, now Link.

Subject to Governmental Zoning and Subdivision ordinances or regulations in effect thereon

Tax Map Parcel 117N-A-002

**ORDINANCE 18 -1127**

**Owner: Cinelli**





ORDINANCE NO. 18-1128

AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE,  
AMENDING THE ZONING MAP TO REZONE PROPERTY LOCATED AT 2622 BERKLEY  
DRIVE, HAMILTON COUNTY TAX PARCEL NUMBER 117L G 017, FROM R-1  
RESIDENTIAL TO R-T/Z TOWNHOUSE / ZERO LOT LINE ZONE, SUBJECT TO  
CONDITIONS

WHEREAS *Tennessee Code Annotated* (TCA) § 13-7-201 allows municipal governments the authority to regulate land use through zoning of its jurisdictional territory; and

WHEREAS the Red Bank Municipal Planning Commission has certified zoning districts as provided for in TCA § 13-7-202; and

WHEREAS TCA §13-7-204 authorizes amendments to the municipal zoning map and provides for that process; and

WHEREAS the rezoning of the subject property to the R-T/Z zoning district would allow for development that promotes the goals of the Red Bank 2020 Land Use Plan; and

WHEREAS the applicant, Delmar Mullis, has requested that his property at 2622 Berkley Drive, Hamilton County Tax Parcel 117L G 017, be rezoned from R-1 to R-T/Z; and

WHEREAS the legal description for said property is more particularly set out on Exhibit A attached hereto and made a part hereof; and

WHEREAS the Red Bank Planning Commission provided an opportunity for citizens to submit comments in favor of or against the proposed rezoning at an advertised public hearing held in conjunction with its regular meeting on July 19, 2018; and

WHEREAS, the Red Bank Planning Commission recommended approving the zoning request, subject to conditions listed herein below; and

WHEREAS, the Red Bank City Commission heard a presentation by the owner describing the intended usage of the property contingent upon the application being approved and provided an opportunity for citizens to submit comments in favor of or against the proposed rezoning at an advertised public hearing on August 21, 2018; and

WHEREAS, the City Commission finds that the rezoning of the subject property to R-T/Z district, subject to the conditions here and below set forth, would allow for development that promotes the goals of the Red Bank 2020 Land Use Plan; and

WHEREAS, the City Commission finds that the proposed development afforded by the rezoning request would not have a negative impact on adjacent properties and is consistent with the Red Bank 2020 Land Use Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RED BANK, TENNESSEE, AS FOLLOWS:

Section 1. The Zoning Ordinances and Zoning Maps of this City are hereby amended by rezoning the property located at 2622 Berkley Drive, Hamilton County Tax Parcel number 117L G 017, more particularly described per the attached Exhibit A and graphically detail per attached Exhibit B, from R-1 Residential to R-T/Z Townhouse/Zero Lot Line, subject to the following condition(s).

(a) Total density is limited to no more than the two dwelling units proposed by the owner/applicant for the property as graphically illustrated per the attached Exhibit B.

Section 2. Upon the adoption of this Ordinance, the Zoning maps of the City shall be amended and changed to reflect this rezoning, subject to the conditions stated.

Section 3. The Zoning Ordinance and Zoning Maps of this City shall automatically revert to R-1 if the signature of the applicant accepting and acknowledging the recited conditions is not affixed within thirty (30) days from and after the passage of this Ordinance on second and final reading.

BE IT FURTHER ORDAINED that every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not affect or impair any other section, sentence, clause, or phrase.

FINALLY, BE IT ORDAINED that this ordinance shall take effect from and after the date of its final passage, the public welfare of the City of Red Bank, Tennessee requiring it.

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Mayor John Roberts

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City Recorder Ruth Rohen

**August 21, 2018**

Approved on First Reading

**September 4, 2018**

Approved on Second and Final Reading

APPROVED AS TO FORM:

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City Attorney Arnold Stulce

Conditions Acknowledged and Accepted:

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Delmar Mullis

## EXHIBIT A. Legal Description

2622 Berkley Drive, Tax Map 117L G 017

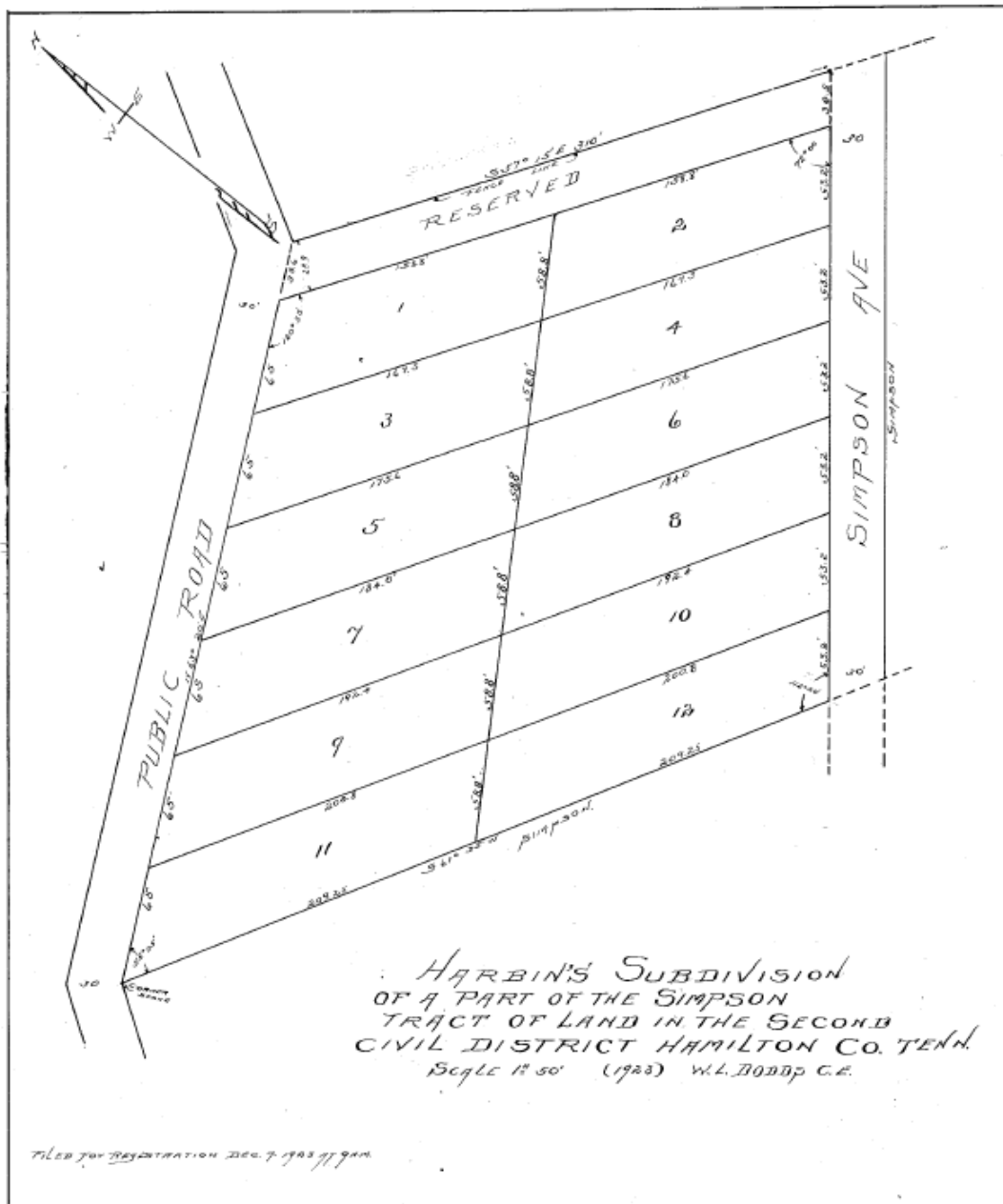
### Deed Book 11327 Page 451

9 Certain real property situated in the 3rd Civil District of Hamilton County, Tennessee, and described as follows, to-wit:

1053 **TRACT ONE (1):** BEING a part of Lots Nine (9) and Eleven (11), Harbins Subdivision of a part of the Simpson Tract of land, as shown by plat of record in Plat Book 9, Page 2, in the Register's Office of Hamilton County, Tennessee. According to said plat, said part of lots make one (1) tract of ground fronting Seventy-five (75) feet on the East line of Berkley Drive and extending Eastwardly, between converging lines, to the West line of Lot Twelve (12) on which it has a footage of Forty-three and 8/10 (43.8) feet; its South line being Two Hundred Nine and 25/100 (209.25) feet and its Northern line One Hundred Eighty-three (183) feet, more or less, in length.

**TRACT TWO (2):** BEING part of Lots Nine (9) and Eleven (11), Harbins Subdivision of a part of the Simpson Tract of land, as shown by plat of record in Plat Book 9, Page 2, in the Register's Office of Hamilton County, Tennessee. According to said plat, said part of said lots are contiguous and more particularly described as follows: **BEGINNING** at a point in the Southeast line of Berkley Drive at the most Northern corner of that part of said Lot Nine (9), conveyed to Milo Terry and wife, by deed of record in Book 963, Page 279, in the said Register's Office; thence Southeastwardly along the Northeast line of the tract conveyed in Book 963, Page 279, Register's Office, to a point in the Southeast line of said Lot Eleven (11), said point being Forty-three and 8/10 (43.8) feet Northeast of the most Southern corner of Lot Eleven (11); thence Northeastwardly along the Southeast line of Lots Eleven (11) and Nine (9), Thirty-six and 85/100 (36.85) feet; thence in a direct line Northwestwardly to a point in the Southeast line of Berkley Drive said point being Twenty-seven and 5/10 (27.5) feet Southwest of the Northeast corner of Lot Nine (9); thence Southwestwardly along the Southeast line of Berkley Drive, Twenty-seven and 5/10 (27.5) feet to the **POINT OF BEGINNING**.

Being the same property conveyed to Steve H. Jan by Warranty Deed from Linda C. Spencer, dated December 31, 1986 and filed of record in Book 3293, Page 76, Register's Office for Hamilton County, Tennessee.

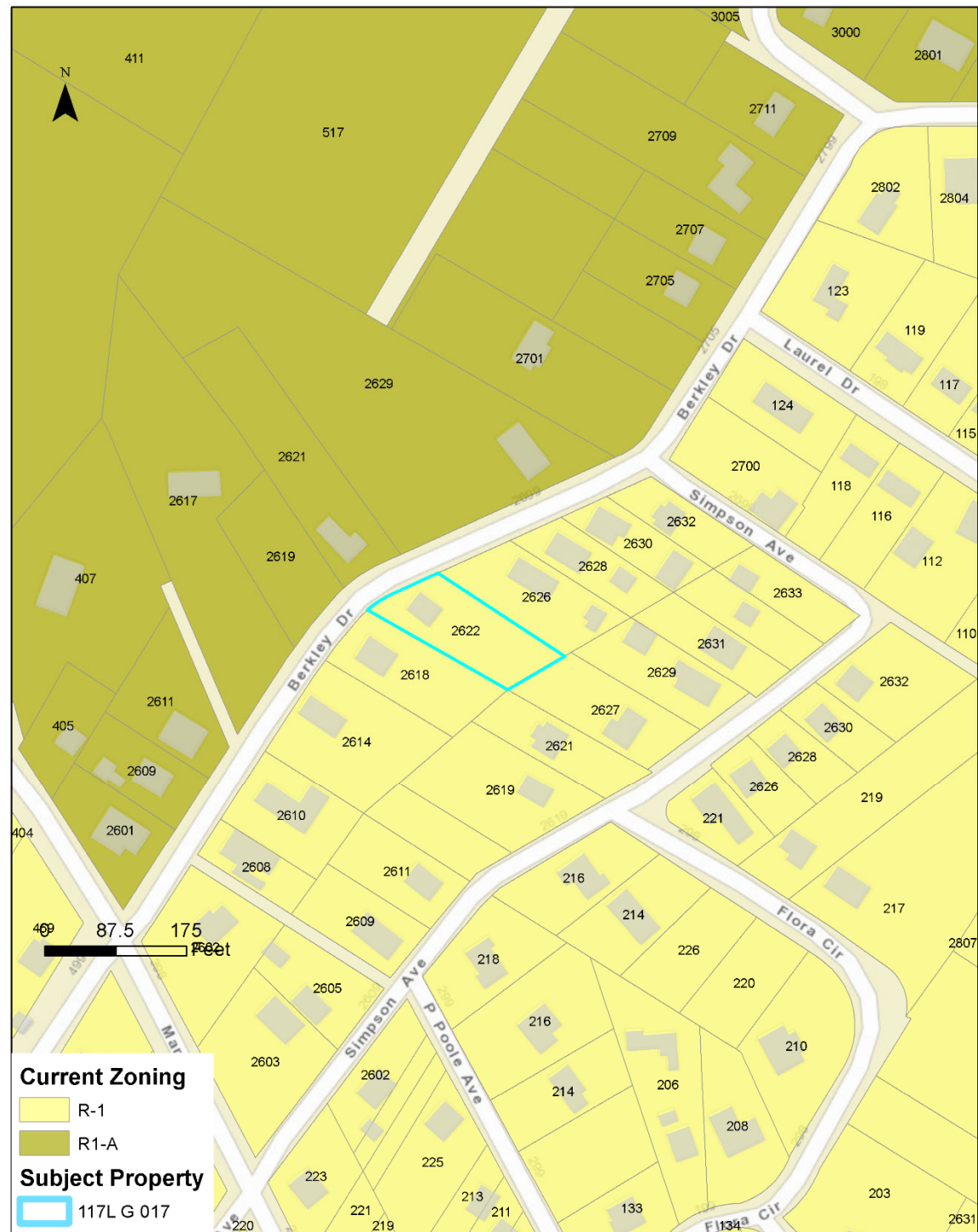


**ORDINANCE 18 - 1128**

## R-1 to R-T/Z Rezoning Request

**2622 Berkley Drive, Tax Map 117L Group G Parcel 017**

**Owner: Mullis**



**ORDINANCE NO. 18-1129**  
**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO**  
**AMEND ORDINANCE NO. 15-1020, THE RED BANK ZONING**  
**ORDINANCE, TO AMEND CHAPTER 14, SECTION 204.11**

**WHEREAS**, the City Commission for the City of Red Bank deems it necessary to provide for the health, safety and welfare of the citizens of the City of Red Bank to regulate the placement of the location, number, height and floor area of accessory use buildings on residentially zoned properties within the City of Red Bank;

**NOW, THEREFORE, BE IT ORDAINED** by the City Commission of the City of Red Bank, Tennessee, as follows:

SECTION 1. Ordinance No. 15-1020, codified at Red Bank City Code Section 14-204.11, shall be amended thereof by deleting the subsection as written and substituting in its place instead the following:

I. SECTION 14-204.11. Definitions

(A) Add a new subsection, to wit:

204.11 Notwithstanding any other provisions in this Zoning Ordinance related to the required front and/or rear yard setbacks, in addition to not more than one (1) single story detached garage as defined in 14-202.02, Accessory Use or Building, a single story detached accessory building no closer than five (5) feet from the interior side lot line and no closer than five (5) from the rear lot line shall be allowable on residential zoned property provided that, in addition, any such accessory building is to be separated by not less than three (3) feet from the principal structure and the garage (if any) located on the premises on residentially zone property, provided further;

(a) Properties with less than one-half (1/2) acre of land area will be permitted no more than one (1) single storied detached wood frame / metal accessory building which may be no larger than one hundred forty-four (144) square feet in floor space.

(b) Properties with more than one-half (1/2) acre of land area shall be permitted no more than two (2) single storied detached wood frame / metal accessory buildings, neither of which may be larger than one hundred forty-four (144) square feet in floor space.

(c) No such accessory buildings or structures shall be larger than one hundred forty-four (144) square feet in floor space. Such storage buildings and/or structures shall be no closer than five (5) feet, including overhangs or eaves, from the rear or side lot line on any residentially zoned property. In addition, any such accessory buildings shall be separated by not less than three (3) feet, including overhangs or eaves, from the main or principle structure, and/or any other accessory building and each other.

(d) To assure compliance with this ordinance, the property owner(s)/tenant(s) and/or occupant(s) must first file with the Building Inspectors office, a site plan detailing the size and location(s) of any such structure intended to be placed or erected on the premises and its location and spacing from the applicable property lines and other permitted structures on the property before installation or construction. Failure to comply with this subsection shall result in a civil penalty of up to \$50 per day and any offending structure located on a property may also be ordered to be removed.

(e) Provided further that no portion of any such accessory building, of any kind, be utilized for human habitation, lodging or occupancy, of any kind long term, short term or under any circumstance.

SECTION 2. Every section, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

SECTION 3. This Ordinance shall take effect from and after the date of its final passage the health, safety and welfare of the citizens of the City of Red Bank requiring it.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Recorder

**September 4, 2018**  
Passed on First Reading

**September 18, 2018**  
Passed on Second and Final Reading

Approved as to form:

\_\_\_\_\_  
City Attorney

ORDINANCE NO. 18-1130

AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE,  
AMENDING THE ZONING MAP TO REZONE PROPERTY AT 121 AND 133 CULVER  
STREET AT HAMILTON COUNTY TAX PARCEL NUMBER 117L M 022.03 AND 117L M  
022.02 FROM R-1 RESIDENTIAL TO R-T/Z TOWNHOUSE / ZERO LOT LINE ZONE

WHEREAS *Tennessee Code Annotated* (TCA) § 13-7-201 allows municipal governments the authority to regulate land use through zoning of its jurisdictional territory; and

WHEREAS the Red Bank municipal planning commission has certified zoning districts as provided for in TCA § 13-7-202; and

WHEREAS TCA §13-7-204 authorizes amendments to the municipal zoning map and provides for that process; and

WHEREAS the rezoning of the subject property to the R-T/Z zoning district would allow for development that promotes the goals of the Red Bank 2020 Land Use Plan; and

WHEREAS the applicant, Greg Jones, has requested that his property at 121 and 133 Culver Street be rezoned from R-1 to R-T/Z; and

WHEREAS the legal description for said properties are included in Exhibit A within Deed Book 8479 Page 0887; and

WHEREAS the Red Bank Planning Commission provided an opportunity for citizens to submit comments in favor of or against the proposed rezoning at an advertised public hearing held in conjunction with its regular meeting on August 16, 2018; and

WHEREAS, the Planning Commission recommended approval as it is consistent with and promotes the goals of the Red Bank 2020 Land Use Plan; and

WHEREAS the City Commission heard a presentation by the owner describing the intended usage of the property, contingent upon the application being approved, and provided an opportunity for citizens to submit comments in favor of or against the proposed rezoning at an advertised public hearing on October 2, 2018, prior to the final to the final reading of this ordinance; and

WHEREAS the City Commission finds that the proposed development afforded by the rezoning request would not have a negative impact on adjacent properties and is consistent with and promotes the goals of the Red Bank 2020 Land Use Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RED BANK, TENNESSEE, AS FOLLOWS:

Section 1. The Zoning Ordinances and Zoning Maps of this City are hereby amended by rezoning the property located at 121 and 133 Culver Street, shown in Exhibit B as Hamilton County tax parcel number 117L M 022.03 and 022.02, from R-1 Residential to R-T/Z Townhouse/Zero Lot Line.

Section 2. Upon the adoption of this Ordinance, the Zoning maps of the City shall be amended and changed to reflect this rezoning.

BE IT FURTHER ORDAINED that every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not affect or impair any other section, sentence, clause, or phrase.

FINALLY, BE IT ORDAINED that this ordinance shall take effect from and after the date of its final passage, the public welfare of the City of Red Bank, Tennessee requiring it.



\_\_\_\_\_  
MAYOR OF RED BANK

\_\_\_\_\_  
CITY RECORDER

October 2, 2018  
PASSED ON FIRST READING

October 16, 2018  
PASSED ON SECOND READING

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

## EXHIBIT A. Legal Description

### Hamilton County Property Card

Parcel ID 117L M 022.03

- LT 4 BEAUMONT SUB PB71 PG71 OUT OF 117L-M-22 FOR 2003

Parcel ID 117L M 022.03

- LT 3 BEAUMONT SUB PB 71 PG 71 OUT OF 117L-M-22 FOR 2003

### Deed Book 8479 Page 0887

**PARCEL TWO: Parcel ID Nos. 117L-M-022.01 & 117L-M-022 & 022.02**

Located in the 3<sup>rd</sup> Civil District of Hamilton County, Tennessee;

TRACT 1:, Lot 1, Final Plat Lots 1-4, Beaumont Subdivision as shown by plat of record in Plat Book 71, page 71, Register's Office of Hamilton County, Tennessee.

TRACT 2: Lots 2, 3, and 4 of Beaumont Subdivision as shown by plat of record in Plat Book 71, page 71, Register's Office of Hamilton County, Tennessee.

And the improvements known as 159 Culver Street, Chattanooga, TN 37415.

(description continued on next page)

Page 1 of 2

Instrument: 2007092600101  
Book and Page: GI 8479 887  
Deed Recording Fee \$10.00  
Data Processing Fee \$2.00  
Probate Fee \$1.00 XMPT  
Total Fees: \$12.00  
User: KHOWARD  
Date: 26-SEP-2007  
Time: 10:15:24 AM  
Contact: Pam Hurst, Register  
Hamilton County Tennessee

Book and Page: GI 8479 888

Subject to any and all easements, covenants and/or restrictions of record, including but not limited to the following:

- Restrictions set out in instrument recorded at Book 839, page 139
- Joint Driveway Agreement set out in instrument recorded at Book 1673, page 20 and page 285
- Provisions regarding subdivision of plats recorded at Book 2116, page 186
- 35' Utility Easement
- 5' Drainage Easement on all side and rear lot lines
- Notes and Stipulations set forth on original plat at Plat Book 29, page 98

and or any and all governmental zoning regulations which may pertain to the above-described property.

Being the same lands conveyed to Grantors from SM Investments LLC, et al, by Warranty Deed dated May 7, 2007 and of record in Deed Book 8336, Page 556 in the Register's Office of Hamilton County, Tennessee.

**EXHIBIT B. Map**  
**ORDINANCE 18-1130**

**R-1 to R-T/Z Rezoning Request**  
**121 and 133 Culver Street, Tax Map 117L Group M Parcel 022.02 and 022.03**  
**Owner: Jones**



**ORDINANCE NO. 18-1132**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO APPROVE AN AGREEMENT BETWEEN THE CITY OF RED BANK AND THE TENNESSEE DEPARTMENT OF SAFETY AND HOMELAND SECURITY, AND TO AMEND THE FY 2019 OPERATING BUDGET TO APPROPRIATE FUNDING FOR THE “2019 DISTRACTED DRIVING REDUCTION PROGRAM GRANT” TOTALING \$36,995.00 FOR THE POLICE DEPARTMENT**

**WHEREAS**, the City of Red Bank Police Department has been awarded a grant for “Distracted Driving Reduction” by the State of Tennessee Department of Safety and Homeland Security in the amount of \$36,995.00; and

**WHEREAS**, this is a 100% grant and requires no local agency match; and

**WHEREAS**, it is necessary for the City of Red Bank to accept grant funding and amend the Fiscal Year 2019 Operating Budget to appropriate these funds totaling \$36,995.00 for use by the Police Department, and

**WHEREAS**, the City Manager is authorized to sign and execute the Grant Contract upon approval by the City Attorney.

**NOW, THEREFORE, BE IT ORDAINED**, by the City Commission of the City of Red Bank, Tennessee as follows:

SECTION 1: That the “Distracted Driving Reduction Program Grant” be and is hereby accepted;

SECTION 2: That the City Manager is authorized to sign and execute the Grant Contract upon approval by the City Attorney;

SECTION 3: That the Fiscal Year 2019 Operating Budget be and is hereby amended as provided:

<b><u>REVENUES</u></b>	
<b>GENERAL FUND</b>	
Grant Revenue	<u>\$36,995.00</u>
<b>TOTAL REVENUES</b>	<b><u>\$36,995.00</u></b>
<b><u>EXPENDITURES</u></b>	
Police	
<i>Salaries &amp; Benefits</i>	<i>\$35,938.00</i>
<i>Supplies</i>	<i>\$600.00</i>
<i>Travel</i>	<i>\$457.00</i>
<b>TOTAL EXPENDITURES</b>	<b><u>\$36,995.00</u></b>

SECTION 4. This Ordinance shall take effect upon the date of its passage upon second and final reading, the welfare of the citizens of the City of Red Bank requiring it.

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Mayor John Roberts

ATTEST:

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City Recorder

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**October 2, 2018**

Passed on First Reading

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**October 16, 2018**

Passed on Second and Final Reading

Approved as to Form:

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City Attorney

## ORDINANCE NO. 18-1133

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO REPEAL ORDINANCE NO. 17-1106, SOLAR PANEL MORATORIUM, AND TO AMEND ORDINANCE NO. 15-1020, THE RED BANK ZONING ORDINANCE BY ADDING DEFINITIONS FOR SOLAR ENERGY SYSTEMS AND BY ADDING A NEW CHAPTER XII, ON SITE SOLAR ENERGY SYSTEM, TO PERMIT SOLAR ENERGY SYSTEMS AS AN ACCESSORY TO PERMITTED, CONDITIONAL AND SPECIAL EXCEPTION USES IN ANY ZONING DISTRICT, AND FURTHER, BY AMENDING THE DEFINITIONS, SECTION 14-202 AND ENACTING CERTAIN REGULATIONS, PROVISIONS RELATED TO SOLAR ENERGY SYSTEMS**

WHEREAS, it is the purpose of this regulation to promote safe, effective and efficient use of solar energy systems installed to reduce the on-site consumption of utility supplied energy and/or hot water as a permitted accessory use while protecting the health, safety and welfare of adjacent and surrounding land uses through appropriate zoning and land use controls. A solar energy system shall be permitted in any zoning district as an accessory use to a principal use herein and subject to specific criteria overlap, the specific criteria shall supersede the general standards.

NOW THEREFOR BE IT ORDAINED, by the City Commission of the City of Red Bank, Tennessee, as follows:

SECTION 1. Chapter 11, Section 14-202, Definitions, shall be amended to include the following definitions and to further re-arrange in alphabetical order these added definitions and the currently existing definitions in this section.

Mechanical Equipment: Any device associated with a solar energy system, such as an outdoor electrical unit/control box, that transfers the energy from the solar energy system to the intended on-site structure.

Solar Access: A property owner's right to have sunlight shine on the owner's land. (The enforcement of this right is through the zoning ordinance that establishes height and setback requirements.)

Solar Energy System: An energy conversion system, including appurtenances, which converts solar energy to a usable form of energy to meet all or part of the energy requirements of the on-site user and/or for integration with and/or transmission to the electrical grid. This definition shall include the terms passive solar and active solar systems. A solar energy system shall be considered as an accessory use, as that term is defined in the ordinance, provided further that in Industrial Zone only nothing contained herein shall be construed to prohibit commercial installation of a solar energy system as the principal and/or primary use for parcels zoned "Industrial"

Solar Glare: The effect produced by light reflecting from a solar panel with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

### SECTION 2. Applicability:

1. Solar energy systems constructed prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance.
2. Any upgrade, modification, or structural change that materially alters the size or placement of an existing solar energy system shall comply with the provisions of this ordinance.

SECTION 3. The Red Bank Zoning Ordinance Codified at Title 14, Chapter 2, inclusive. Regulations shall be amended by adding a new Chapter XII as follows:

### SOLAR ENERGY SYSTEMS

1. The installation and construction of any solar energy system in the City of Red Bank shall be subject to the following development, design and operational standards:
  - A. A solar energy system is permitted in all zoning districts as an accessory to a principal use, except in the context of property within the Industrial Zone. Nothing contained herein shall be construed to prohibit commercial installation of a solar energy system as either an accessory use or as the principal and/or primary use for parcels zoned "Industrial"
  - B. A solar energy system shall provide power for the principal use (limited to Industrial Zone) and/or accessory use of property on which the solar energy system is located and shall not be used for the generation of power for the sale of energy or the gratuitous transfer of energy to other users, except as permitted and/or accepted by the Electric Power Board and/or the Tennessee Valley Authority.
  - C. A solar energy system connected or intended to be connected to the utility grid shall at the time of application for the electrical permit provide written authorization from the local utility company acknowledging and approving such connection.
  - D. Subject to more particular regulation provisions hereinafter provided in this Chapter, a solar energy system may be roof mounted or ground mounted.
  - E. A roof mounted system may be mounted on the roof of a principal building or accessory building. No system may be mounted on or attached to the side of any building except for Solar Canopies. A roof mounted system, whether mounted on the principal building or accessory building, may not exceed the maximum principal building height or accessory building height specified for the building type in the particular, and, applicable zoning district. In no instance shall any part of the solar energy system extend beyond the edge (overhang) of roof. No part of any roof mounted system, facility or panel may exceed above the roof or roof line and must at all times comply with a maximum height requirement of the underlying zoning district.
  - F. A ground mounted system shall not exceed the maximum building height for accessory buildings, no poles or pedestal or other mounted system, including the solar panels, may exceed ten (10') feet of height above ground level.
  - G. The surface area of a ground mounted system, regardless of the mounted angle, shall be calculated as part of the overall lot coverage.
  - H. Placement
    - (i) A ground mounted system or system attached to an accessory building shall not be located within the front yard of any residentially zoned or commercially zoned property.
    - (ii). In Industrial zones, no system may be installed, mounted or erected or located  
any closer to any Residentially zoned properties rear or side property lines and no closer than two (2) times the otherwise applicable set back distances.
    - (iii) In Industrial zones otherwise applicable set back lines shall be applicable
  - I. Except as otherwise specifically provided herein, the minimum solar energy setback distance from the property lines shall be equivalent to the building setback or accessory building setback requirement of the underlying zoning district.

- J. All mechanical equipment associated with and necessary for the operation of the solar energy system shall comply with the following:
    - a. Mechanical equipment not attached to the structure shall be screened from any adjacent property that is residentially zoned or used for residential purposes. The screen shall consist of shrubbery, trees, or other noninvasive plant species which provides a visual screen. In lieu of a planting screen, a decorative fence meeting the requirements of the Zoning Ordinance may be used.
    - b. Mechanical equipment shall not be located within the front yard of any residentially or commercially zoned property nor within the front, side or rear setback for Industrial zoned property and shall otherwise comply with the setbacks specified for accessory structures in the underlying zoning district
  - K. Solar panels shall be located such that concentrated solar radiation or glare shall not be directed onto nearby properties or roadways.
  - L. All power transmission lines from a ground mounted solar energy system to any building or other structure shall be located underground.
  - M. A solar energy system shall not be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners, or other similar materials. The manufacturers and equipment information, warning, or indication of ownership shall be allowed in any equipment of the solar energy system, provided they comply with the prevailing sign regulations.
  - N. A solar energy system shall not be constructed until a building / zoning /electrical permit has been approved and issued by the City of Red Bank and as may be applicable, approved by the Electric Power Board.
  - O. The design of the solar energy system shall conform to applicable industry standards. A building permit may only be obtained for a solar energy system pursuant to all applicable building, electrical and safety codes and regulations adopted thereunder. All wiring shall comply with the then applicable version of the National Electrical Code (NEC) and shall also require an electric permit from the City prior to installation. The local utility provider shall be contacted to determine grid interconnection and meet metering policies and the Applicant shall submit certificates of design compliance obtained by the equipment manufacturer from a certifying organization and any such design shall be certified by an Engineer licensed by the State of Tennessee
  - P. The solar energy system shall comply with all applicable City of Red Bank Ordinances and Building Codes so as to ensure the structural integrity and safety of such solar energy system.
  - Q. Before any construction can commence of any solar energy systems or be installed or erected, the owner must acknowledge, in writing on the City of Red Bank issued permit that he/she is the responsible party for owning and maintaining the solar energy system.
2. If a ground mounted solar energy system is removed, any earth disturbance as a result of the removal of the ground mounted solar energy system shall be graded and reseeded.



3. If a ground mounted solar energy system has been abandoned (meaning not having been in operation for a period of one-hundred and eighty (180) days or more, or is defective or is deemed to be unsafe by the City Manager or his/her designee, the solar energy system shall be immediately disconnected from the building and the Electric Power Board shall be notified and the system required to be repaired by the owner, and subject to inspection by the City, required to meet federal, state and local safety standards before resuming operations, or be removed by the property owner within the time period allowed by the Building Code Official. If the owner fails to remove or repair the defective or abandoned solar energy system, City may pursue a legal action to have the system removed at the owner's expense, which cost shall be a municipal lien against the real property upon which the solar energy system is located.

SECTION 4. Ordinance No. 17-1106, declaring a moratorium upon the erection, installation, construction or other utilization and/or placement of solar panels or solar arrays within the City of Red Bank, is hereby repealed.

SECTION 5. Every section, clause and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause or phrase.

SECTION 6. This Ordinance shall take effect from and after the date of its final passage the health, safety and welfare of the citizens of the City of Red Bank requiring it.

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Mayor

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City Recorder

October 2, 2018

Passed on First Reading

November 20, 2018

Passed on Second and Final Reading

Approved as to form:

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City Attorney

**ORDINANCE NO. 18-1134**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE,  
AMENDING THE ZONING MAP TO REZONE PROPERTY AT 918 LULLWATER  
ROAD AT HAMILTON COUNTY TAX PARCEL NUMBER 117K C 010 FROM R-1  
RESIDENTIAL TO R-T/Z TOWNHOUSE / ZERO LOT LINE ZONE. SUBJECT TO  
CONDITIONS**

**WHEREAS** *Tennessee Code Annotated* (TCA) § 13-7-201 allows municipal governments the authority to regulate land use through zoning of its jurisdictional territory; and

**WHEREAS** the Red Bank Municipal Planning Commission has certified zoning districts as provided for in TCA § 13-7-202; and

**WHEREAS** TCA §13-7-204 authorizes amendments to the municipal zoning map and provides for that process; and

**WHEREAS** the applicant, Elliot Brewer, has requested that his property at 918 Lullwater Road be rezoned from R-1 to R-T/Z; and

**WHEREAS** the legal description for said property is included and is more particularly described per the attached Exhibit A, as excerpted from deed of record in Deed Book 9621 Page 963 in the Registers Office of Hamilton County, Tennessee; and

**WHEREAS** the Red Bank Planning Commission provided an opportunity for citizens to submit comments in favor of or against the proposed rezoning at an advertised public hearing held in conjunction with its regular meeting on September 20, 2018; and

**WHEREAS** the Red Bank Planning Commission recommended approval as rezoning of the subject property to the R-T/Z zoning district, subject to conditions, would allow for development that promotes the goals of the Red Bank 2020 Land Use Plan; and

**WHEREAS** the City Commission provided an opportunity for citizens to submit comments in favor of or against the proposed rezoning at an advertised public hearing held in conjunction with its regularly scheduled meeting on November 6, 2018; and

**WHEREAS** the City Commission finds that the proposed rezoning and proposed development afforded by the rezoning request would not have a negative impact on adjacent properties and is consistent with and promotes the goals of the Red Bank 2020 Land Use Plan.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RED BANK, TENNESSEE, AS FOLLOWS:**

Section 1. The Zoning Ordinances and Zoning Maps of this City are hereby amended by rezoning the property located at 918 Lullwater Road, shown in Exhibit B as Hamilton County tax parcel number 117K C 010 from R-1 Residential to R-T/Z Townhouse/Zero Lot Line, subject to the following condition(s).

(a) Density is limited to no more than six single-family units proposed in the six-lot subdivision of the 1.3-acre site, as per rendering attached hereto as Exhibit C.

Section 2. Upon the adoption of this Ordinance, the Zoning maps of the City shall be amended and changed to reflect this rezoning.

**BE IT FURTHER ORDAINED** that every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not affect or impair any other section, sentence, clause, or phrase.

**FINALLY, BE IT ORDAINED** that this ordinance shall take effect from and after the date of its final passage, the public welfare of the City of Red Bank, Tennessee requiring it.

MAYOR

CITY RECORDER

November 6, 2018  
PASSED ON FIRST READING

November 20, 2018  
PASSED ON SECOND READING

APPROVED AS TO FORM:

City Attorney

Accepted as to conditions:

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Elliott Brewer
Date

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Date

## **EXHIBIT A. LEGAL DESCRIPTION**

### **Hamilton County Property Card**

Parcel ID 117K C 010

LTS 15A&14B PT 14A SUBURBAN ESTATES N/R

### **Deed Book 9621 Page 0963**

LOCATED IN THE THIRD CIVIL DISTRICT OF HAMILTON COUNTY, TENNESSEE:

Being the north part of Lot 14-A, all of Lot 14-B, and all of Lot 15-A, of the Suburban Estates Company's Subdivision of the Martin Tract on Lullwater Road, said lots and part of lot form one tract more fully described as: BEGINNING at a point on Suburban Estates Company's Eastern division line between its lands and what is known as the John Martin Tract, which point is located 450 feet, North 40 Degrees 43 Minutes East from a large sycamore tree, marking the Southwest corner of said Martin Tract, said point is at the Northwest corner of a tract conveyed by the grantor herein to G.W. Martin and wife by deed dated November 22, 1954; thence from said beginning point on the same course North 40 Degrees 43 Minutes East along said division line 250 feet more or less, to the Northeast corner of Lot 15-A; thence North 49 Degrees 17 Minutes West 190 feet, more or less to a point in the Eastern line of Lullwater Road; thence Southwestwardly along the Eastern line of Lullwater Road 250 feet, more or less, to a point, said point being the Northwest corner of the G. W. Martin Tract hereinabove referred to thence South 49 Degrees 17 Minutes East to the point of BEGINNING, said above tract described according to a private plat of Suburban Estates Company prepared by E.G. Murrell, Engineer.

THIS CONVEYANCE MADE SUBJECT TO THE FOLLOWING:

Subject to restrictions of record in Book 921, page 632, Book 921, page 476 and in Book 925, page 526, of Register's Office of Hamilton County, Tennessee, but omitting any covenant or restriction based on race, color, religion, sex, handicap, familial status or national origin unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons.

Subject to all notes, stipulations, restrictions, easements, conditions, and regulations as set out on recorded plat.

Any governmental zoning and subdivision ordinances in effect thereon.

The Grantor's source of interest is a deed recorded in Book 7876, Page 698 in the Register's Office of Hamilton County, Tennessee.

This property is also commonly known as: 918 Lullwater Road, Chattanooga TN 37405.

EXHIBIT B MAP

ORDINANCE 18 - 1134



AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, AMENDING THE RED BANK ZONING ORDINANCE TO MODIFY SETBACK REQUIREMENTS IN THE C-1 AND C-3 COMMERCIAL ZONING DISTRICTS IN ORDER TO CORRESPOND TO PROVISIONS IN THE DESIGN REVIEW ORDINANCE NO. 17-1090

**WHEREAS**, the City Commission wishes to promote quality commercial development of the C-1 and C-3 Commercial Zones and particularly along Dayton Boulevard; and

**WHEREAS**, the setback requirements established in the Design Review Standards, Ordinance No. 17-1090, earlier adopted by the City of Red Bank, represent a comprehensive study of the topic, with input from Red Bank Planning Commission, Red Bank citizenry and the Red Bank City Commission: and

**WHEREAS**, the current setback requirements in the C-1 and C-3 zoning districts in the Red Bank Zoning Ordinance conflict with the setback requirements established in the more recently enacted Design Review Standards Ordinance No. 17-1090; and

**WHEREAS**, the provisions of this ordinance have been reviewed by and approved by the Red Bank Planning Commission.

**NOW, THEREFORE, BE IT ORDAINED** by the City Commission of the City of Red Bank, Tennessee that the Zoning Ordinance be amended as follows:

SECTION 1. That Chapter IV, Section 14-402, C-1 Commercial Zone, be amended by deleting subsection 402.04 (B) in its entirety and substituting in its place and stead the following:

- (B) There shall be a front yard setback from the public right-of-way of not less than seven (7) feet and not greater than twenty-five (25) feet.

SECTION 2. That Chapter IV, Section 14-404, C-3 Commercial Zone be amended by deleting subsection 405.07 (A) and substituting in its place and stead the following:

- (A) There shall be a front yard setback from the public right-of-way of not less than seven (7) feet and not greater than twenty-five (25) feet.

SECTION 3. Every section, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not affect or impair any other section, sentence, clause, or phrase.

SECTION 4. This Ordinance shall take effect from and after the date of its final passage the health, safety and welfare of the citizens of the City of Red Bank requiring it.

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Mayor

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City Recorder

November 6, 2018

Passed on First Reading

December 4, 2018

Passed on Second and Final Reading

Approved as to form:

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City Attorney

ORDINANCE NO. 18 - 1136

AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, AMENDING  
THE RED BANK ZONING ORDINANCE NO. 15-1020, SECTIONS 14-402.01,  
14-404.01 AND 14-405.01 IN ORDER TO MODIFY THE COMMERCIAL  
ZONE INTENT STATEMENTS FOR COMMERCIAL ZONING DISTRICTS

WHEREAS, upon extensive study by and recommendations of the Red Bank Planning Commission, the City Commission determines it to be in the best interest of the citizens of the City of Red Bank to better define and clarify the “zoning intent” statements in the zoning ordinance in order to better provide guidance for development and re-development within zones C-1, C-2 and C-3; and to further promote a lower intensity form of commercial development by amending the Permitted and Prohibited Uses in the C-3 Commercial Zone; and

WHEREAS, the current C-3 Commercial Zone does not include sufficient flexibility to promote the lower intensity forms of development envisioned by the City Commission; and

WHEREAS, the Red Bank Planning Commission held a Public Hearing in conjunction with its regularly scheduled meeting on March 15, 2018 and provided an opportunity for comments in favor of or against the proposed Red Bank Zoning Ordinance Amendment(s); and

WHEREAS, the Red Bank Planning Commission recommended approving the proposed amendments to the zoning ordinance; and

WHEREAS, the City Commission recognizes the need to clarify various commercial zone district regulations and intent statements; and

WHEREAS, the City Commission held a public hearing and provided an opportunity for citizen comments in favor of or opposed to the proposed amendments to the zoning ordinance at a Public Hearing held during its regularly scheduled Commission Meeting on November 6, 2018.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Red Bank, Tennessee that the Zoning Ordinance for the City of Red Bank, Tennessee, be amended as follows:

SECTION 1. That Chapter IV, Section 14-402, C-1 Commercial Zone, be amended by deleting present subsection 402.01, Intent in its entirety, and substituting in lieu thereof the following:

402.01 Intent

It is the intent of the C-1 Commercial Zone to

- (A) Promote a diverse mix of retail and service uses to serve both area residents and customers traveling to and from other neighborhoods and places of employment;
- (B) Balance the need to accommodate automobile-oriented commerce with the need to promote more pedestrian-oriented development in the commercial corridor;
- (C) Minimize conflicts between uses in and around the district through landscape and buffering requirements;
- (D) Emphasize access control to manage traffic generated by general commercial uses;
- (E) Promote quality residential development that enhances the character of the commercial corridor; and
- (F) Ensure that new development meets the intent of the Red Bank Design Review Standards.

The Location(s) of C-1 Commercial Zoned properties are as shown on the official zoning map for the City of Red Bank.



SECTION 2. That Chapter IV, Section 14-404, C-2 Commercial Zone (Central Business District), be amended by deleting present subsection 404.01, Intent in its entirety, and substituting in lieu thereof the following:

**404.01 Intent**

It is the intent of the C-2 Commercial Zone to

- (A) Function as the Central Business District for the City of Red Bank;
- (B) Promote a mix of retail, service, civic and related uses that enhance the character of the Central Business District as a pedestrian-friendly town center where people come to shop, dine, work, and gather;
- (C) Create pedestrian-oriented development that connects businesses with the sidewalk and contributes to a continuous commercial frontage of a size and scale that is compatible with a small town;
- (D) Encourage mixed-use development and residential development that enhances the character of the Central Business District;
- (E) Ensure that uses are compatible with surrounding neighborhoods;
- (F) Discourage uses that cater exclusively to automobile-oriented customers; and
- (G) Ensure that new development meets the intent of the Red Bank Design Review Standards.

The Location(s) of C-2 Central Business District of properties are as shown on the official zoning map for the City of Red Bank.

SECTION 3. That Chapter IV, Section 405.01 and 405.02 are presently written, C-3 Neighborhood Commercial Zone, be amended by deleting the subsections and substituting in lieu thereof the following:

**405.1 Intent**

It is the intent of the C-3 Neighborhood Commercial Zone to promote, protect and sustain the viability of neighborhoods by allowing the development and maintenance of small commercial and service enterprises, which are both compatible with and complimentary to residential properties within the immediate vicinity. Furthermore, it is the intent of this section that all businesses located within the C-3 Neighborhood Commercial Zone shall be for retail sales, services or otherwise of such nature as to be a benefit or convenience to neighborhood residents.

**405.2 Location**

The Location(s) of C-3 Neighborhood Commercial Zoned properties are as shown on the official zoning map for the City of Red Bank.

SECTION 4. Every section, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not affect or impair any other section, sentence, clause, or phrase.

SECTION 5. This Ordinance shall take effect from and after the date of its final passage the health, safety and welfare of the citizens of the City of Red Bank requiring it.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Recorder

November 6, 2018  
Passed on First Reading

\_\_\_\_\_  
Passed on Second and Final Reading

Approved as to form:  
  
\_\_\_\_\_  
City Attorney

ORDINANCE NO. 18 - 1137

AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, AMENDING THE RED BANK ZONING ORDINANCE NO. 15-1020 AT SECTIONS 405.03, 405.04, 405.05, 405.06 AND 405.08, AMENDING THE PERMITTED AND PROHIBITED USES AND SET BACK REQUIREMENTS IN THE C-3 COMMERCIAL ZONE

WHEREAS, the City Commission wishes to promote a lower intensity form of commercial development by amending the Permitted and Prohibited Uses in the C-3 Commercial Zone; and

WHEREAS, the current C-3 Commercial Zone regulations and provisions do not include sufficient flexibility to promote the lower intensity forms of development envisioned by the City Commission in the City's Land Use Plans; and

WHEREAS, the Red Bank Planning Commission held a Public Hearing in conjunction with its regularly scheduled meeting on March 15, 2018 and provided an opportunity for comments in favor of or against the proposed Red Bank Zoning Ordinance Amendments; and

WHEREAS, the Red Bank Planning Commission recommended approving the proposed amendments to the zoning ordinance; and

WHEREAS, the City Commission recognizes the need to clarify and further define permitted and prohibited uses in the C-3 commercial zone; and

WHEREAS, the City Commission held a public hearing and provided an opportunity for citizen comments in favor of or opposed to the proposed amendments to the zoning ordinance at a Public Hearing held during its regularly scheduled Commission Meeting on November 6, 2018.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Red Bank, Tennessee that the Zoning Ordinance for the City of Red Bank, Tennessee, be amended as follows:

SECTION 1. That Chapter IV, Section 14-405, C-3 Neighborhood Commercial Zone, be amended by deleting present subsections 405.03, 405.04, 405.05, 405.06, and 405.08 in their entirety and substituting in lieu thereof the following:

**(a) 405.03 Permitted Uses**

- (A) Drug Stores
- (B) Bakeries, provided all goods are sold on premise
- (C) Stationary Stores
- (D) Shoe Stores
- (E) Florist
- (F) Music Stores
- (G) Barber/Beauty Shops
- (H) Cleaning and Laundry Establishments
- (I) Repair Shops for shoes, household articles or appliances
- (J) Offices up to 5,000 square feet, unless otherwise prohibited or subject to special exception review under Section 14-405.04 or elsewhere in the Red Bank Zoning Ordinance
- (K) Studios/Galleries
- (L) Medical and Dental Clinics, up to 5,000 square feet
- (M) Specialty Shops and Stores
- (N) Taverns, Wine and Cocktail Bars, Brew Pubs, Microbreweries and similar uses.

- (O) Bed and Breakfast Establishments/Short Term Rental Units
- (P) Single Family Dwellings, except Manufactured or Mobile Homes.
- (Q) Townhomes and Condominiums
- (R) Banks
- (S) On Premise Signs Pursuant to the Sign Ordinance.
- (T) Accessory Buildings and uses customarily incident to the above uses.
- (U) In general, any use that is similar in character to the above uses and in keeping with the intent of the zoning district

**(b) 405.04 Uses permitted by Special Exceptions Permit by the Red Bank City Commission upon recommendation by the Red Bank Planning Commission**

- (A) Daycare Centers
- (B) Offices over 5,000 square feet
- (C) Nursing Homes
- (D) Hospitals and Social Agencies
- (E) Schools, churches and other public and semi-public buildings
- (F) Assisted Living Facilities
- (G) Retail Sales unless otherwise permitted
- (H) Commercial Establishments up to 5,000 square feet
- (I) Small print shops with a floor area less than 20,000 square feet
- (J) Restaurants and other establishments serving food and alcoholic beverages
- (K) Theaters
- (L) Plumbing, electrical, radio, TV workshops and similar uses, provided no more than five (5) people are employed and equipment and trucks are not visible from Dayton Boulevard

**(c) 405.05 Permitted Accessory Uses and Structures**

Uses and structures which are customarily accessory and incidental subordinate to principal permitted uses and structures, and which do not involve operations or structures not in keeping with the intent of this section or would have an adverse effect on the character of the area surrounding zone. See section 14.204.11 relating to accessory building regulations.

**(d) 405.06 Prohibited Uses**

- (A) Mixed Use Developments
- (B) The playing of music or making of announcements directly or through mechanical or electronic devices in a manner audible at any residential lot
- (C) Adult oriented establishments of any type
- (D) Title Pawn, Check Cashing Establishments, Alternative lending services and similar uses
- (E) Automobile fueling stations
- (F) Automobile repair and/or maintenance and similar uses
- (G) Automobile sales and similar uses
- (H) Automobile washes, car detail and similar uses
- (I) Drive-thru or drive-in uses
- (J) Funeral homes, memorial chapels, crematories and undertaking
- (K) Halfway house, alcohol and drug rehabilitation centers, or any similar use
- (L) Hotels and motels
- (M) Liquor stores
- (N) Manufactured or mobile homes
- (O) Mobile home parks, campsites and similar uses
- (P) Indoor or Outdoor amusement facilities, bowling alleys
- (Q) Outdoor sales, service, or display or storage at any time, except for

- outdoor seating for restaurants
- (R) Storage or warehousing facilities, including self-storage or mini-warehouses or any other sort of commercial storage or warehousing facility or usage
- (S) Tattoo parlors and similar uses
- (T) Grocery Stores
- (U) Hardware Stores
- (V) Meat or Fish Markets
- (W) In general, all uses which are not in keeping with the intent of this zone

**(e) 405.08 Height and Area Regulations**

- (A) No building shall exceed in height the shortest distance from such building to the nearest boundary of a residential zone.
- (B) Front yards shall meet the minimum and maximum requirements established in Section 405.07 (A).
- (C) There shall be a minimum side yard requirement of not less than ten (10) feet where a permitted use adjoins a residential zone.
- (D) There shall be a rear yard of not less than twenty-five (25) feet where a permitted use adjoins a residential zone.
- (E) There shall be a minimum house size of one thousand and four hundred (1,400) square feet.

SECTION 2. Every section, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not affect or impair any other section, sentence, clause, or phrase.

SECTION 3. This Ordinance shall take effect from and after the date of its final passage the health, safety and welfare of the citizens of the City of Red Bank requiring it.

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Mayor

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City Recorder

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Passed on First Reading

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Passed on Second and Final Reading

Approved as to form:

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City Attorney

ORDINANCE NO. 18-1138

AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE,  
TO AMEND THE RED BANK ZONING ORDINANCE,  
NUMBER 15-1020, CHAPTER 4, SECTIONS 14-402, 14-404  
AND 14-405 WITH RESPECT TO OUTDOOR DISPLAY,  
STORAGE OR SALE OF MERCHANDISE IN THE  
COMMERCIAL ZONES

**WHEREAS**, the City Commission approved Ordinance No. 17-1082 on March 21, 2017 with respect to outdoor display, storage or sale of merchandise; and

**WHEREAS**, subsequent to the approval of Ordinance No. 17-1082, and ongoing changes and trends of the Commercial Zones, the regulations thereby enacted have fallen short of one of the objectives of Ordinance No. 17-1082; and

**WHEREAS**, in an effort to correct these short falls, revisions to the ordinance have been referred to the Red Bank Planning Commission for review, whereby the Red Bank Planning Commission has held a Public Hearing on October 18, 2018 at which comments, for and/or against, the proposed ordinance were heard; and

**WHEREAS**, the Red Bank Planning Commission has recommended that this Ordinance should be approved and adopted by the Red Bank City Commission; and

**WHEREAS**, the City of Red Bank held a duly noticed and advertised Public Hearing of and with respect to the terms, conditions and provisions of this Ordinance, reviewed the recommendations of the Red Bank Planning Commission at said public hearing and has given an opportunity for citizens to express their opinion for or against the terms, provisions and conditions of this Ordinance, said hearing having been held at a regularly scheduled meeting of the City of Red Bank on the 6<sup>th</sup> day of November 2018; and

**WHEREAS**, the City Commission of the City of Red Bank, having determined based upon experience, public comment and input, and recommendation of the Red Bank Planning Commission that continuing to allow commercial outdoor display, storage, or sale of merchandise in the commercial zone(s) is in the best interest of the citizens of the City of Red Bank.

**NOW, THEREFORE, BE IT ORDAINED** by the City Commission of the City of Red Bank, Tennessee that the Red Bank Zoning Ordinance, Codified at Title 14 of the Red Bank City Code be amended as follows:

SECTION I. Section 14-402.02 (L) with respect to C-1 Commercial Zone Permitted Uses be deleted as written and the following be provided in its place and stead:

- (L) Outdoor display or storage or sale of merchandise between 8:00 a.m. and 8:00 p.m. and provided further that any such display, storage or sale shall not occupy more than 33 1/3% of the frontage space of the outdoor street facing facade of the building itself nor more than 33 1/3% of any area between the front facade of the building and the public right-of-way and may not obstruct the entrance to the building to pedestrian traffic or otherwise interfere with the required minimum number of off street parking spaces available for the premises as otherwise provided. Permitted uses exempt from outdoor storage requirements in this Section include
- 1) New and Used car, motorcycle, boat, farm equipment dealers;

- 2) Gasoline Service Stations and Auto repair centers;
- 3) Hardware stores; Home Improvement stores;
- 4) Grocery stores;
- 5) Uses similar to the above in character and impact;

SECTION 2. Section 404.02 with respect to the C-2 Commercial Zone Central Business District Permitted Uses shall be amended to add a new sub-section (X) as follows:

- (X) Outdoor display, storage or sale of merchandise between 8:00 a.m. and 8 :00 p.m. and provided further that any such display, storage or sale shall not occupy more than 33 1/3% of the frontage space of the outdoor street facing facade of the building itself nor more than 33 1/3%, of any area between the front facade of the building and the public right-of-way and may not obstruct the entrance to the building to pedestrian traffic or otherwise interfere with the required minimum number of off street parking spaces available for the premises as otherwise provided. Permitted uses exempt from outdoor storage requirements in this Section include
- 1) Grocery stores;
  - 2) Hardware stores; Home Improvement Stores;
  - 3) Uses similar to the above in character and impact;

SECTION 3. Section 14-404.03 with respect to the C-2 Commercial Zone Central Business District Prohibited Uses, sub-section (I) be deleted in its entirety and the sub-section “Reserved”.

SECTION 4. Section 14-405.03 with respect to the C-3 Commercial Zone Permitted Uses shall be amended to add a new sub-section (T) as follows:

- (T) Outdoor display, storage or sale of merchandise between 8:00 a.m. and 8 :00 p.m. and provided further that any such display, storage or sale shall not occupy more than 33 1/3% of the frontage space of the outdoor street facing facade of the building itself nor more than 33 1/3%, of any area between the front facade of the building and the public right-of-way and may not obstruct the entrance to the building to pedestrian traffic or otherwise interfere with the required minimum number of off street parking spaces available for the premises as otherwise provided.

SECTION 5. Section 14-405.06 with respect to the C-3 Commercial Zone Prohibited Uses, sub-section (A), shall be deleted in its entirety and the sub-section “Reserved”.

SECTION 6. Every section, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

SECTION 7. This Ordinance shall take effect from and after the date of its final passage  
the health, safety and welfare of the citizens of the City of Red Bank requiring it.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Recorder

November 6, 2018  
Passed on First Reading

November 20, 2018  
Passed on Second and Final Reading

Approved as to form:

\_\_\_\_\_  
City Attorney



ORDINANCE NO. 18 - 1139

AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, AMENDING TITLE 7, CHAPTER 2, SECTIONS 201 AND 205 OF THE RED BANK CITY CODE IN ORDER TO CLARIFY AND FURTHER ESTABLISH CERTAIN LIMITATIONS WITH RESPECT TO THE WIDTH OF PAVEMENT AS CONTAINED THEREIN.

WHEREAS, the City of Red Bank has previously adopted various iterations and editions of the International Fire Code, including appendices B through J and Appendix D thereof providing, in essence, that all fire access roads and easements must be at least twenty-two (22) feet in pavement width (Ordinance 16-1079, Oct. 2016); and

WHEREAS, the City, in the context of development and re-development of certain areas of the City and as necessitated and/or encouraged by the current Land Use Plan, including concepts related to higher population density and higher land use density issues, desires to provide flexibility in certain instances, with regard to minimum fire lane road width distances while at the same time maintaining the integrity of the protections afforded by the International Fire Code with respect to the protection of persons, property and the general health, safety and welfare of the citizens of Red Bank; and

WHEREAS, there exists, within the City, historical patterns of development of properties and surrounding areas appropriate for development and/or re-development which, in certain limited circumstances, render the absolute standards of the Fire Code with respect to pavement widths, unduly burdensome and un-necessarily wide, while maintaining the goal to protect the public health, safety and welfare; and

WHEREAS, professionals, such as engineers, and in general, the Fire Chief in particular are possessed of expertise in such matters of and related to the equipment utilized and most likely to be utilized by the Red Bank Fire Department in its fire protection activities; and

WHEREAS, certain limited leeway, discretion and authority with respect to variances for pavement width is necessary, desirable and appropriate as long as the health, safety and welfare of the citizens of the City of Red Bank continue to be protected in instances of development or re-development of properties within the City of Red Bank.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Red Bank, Tennessee that, Title 7, Chapter 2, Sections 201 and 205 are hereby amended as follows:

SECTION 201 – Fire Code Adopted.

Add sentence at the end of the presently existing section 201 as follows:

Upon express findings of undue hardship due to topography and narrowness of a suitable location for a roadway and existing patterns of development, the City Commission may, upon express written recommendation of the Fire Chief, grant on a case by case basis, initiated by written application of the land owner or developer, a VARIANCE To The Requirement Of This Chapter and of The International Fire Code that fire access roads shall be at least twenty-two (22') feet in pavement width provided however that in no event any such pavement width be reduced to less than twenty (20') Feet.

SECTION 205 – Variances.

Upon express findings of undue hardship due to topography and narrowness of a suitable location for a roadway and existing patterns of development, the City Commission may, upon express written recommendation of the Fire Chief, grant on a case by case basis, initiated by written application of the land owner or developer, a VARIANCE To The Requirement Of This Chapter and of The International Fire Code that fire access roads shall be at least twenty-two (22) feet in pavement width provided however that in no event any such pavement width be reduced to less than twenty (20') Feet.

SECTION 4. Every section, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not affect or impair any other section, sentence, clause, or phrase.

SECTION 5. This Ordinance shall take effect from and after the date of its final passage the health, safety and welfare of the citizens of the City of Red Bank requiring it.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Recorder

November 20, 2018  
Passed on First Reading

December 4, 2018  
Passed on Second and Final Reading

Approved as to form:

\_\_\_\_\_  
City Attorney

ORDINANCE NO. 18 - 1140

AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE TO AMEND TITLE 16, CHAPTER 1, SECTION 16-116 (11) IN ORDER TO PERMIT, UNDER CERTAIN LIMITED CIRCUMSTANCES AND CONDITIONS THE UTILIZATION OF THE PUBLIC RIGHT OF WAY FOR PRIVATE OR QUASI-PRIVATE PURPOSES.

WHEREAS, City Commission recognizes and declares that public rights of way are a public resource and an integral element in shaping and maintaining the community. Rights of way contain roads and other public services, allow access to and servicing of, individual properties alone, its frontages and provides shape and form to City neighborhoods and to commercial and industrial areas. It is the policy of the City of Red Bank, its City Commission and Planning Commission, and other public agencies to retain rights of way for public use and only to recommend closures, abandonments, and/or temporary usage permits when it is concluded that the public has no foreseeable needs to retain such rights of way and/or to portions thereof and that if abandonment, closure and/or issuance of temporary use permits to achieve a significant private and/or public interest is in the overall best interest of the City of Red Bank; and

WHEREAS, the City of Red Bank has long recognized and as provided by Ordinance and policy that it is unlawful for any person to obstruct any street, gutter, sidewalk or right of way within the City by placing or allowing thereon any material, by constructing or placing therein any structure, obstructing, landscaping or other material which may constitute an obstruction thereof and except for such temporary and reversible usage as may be expressly permitted by the City and;

WHEREAS, the City's Land Use Plan and continuing efforts to develop and re-develop the City in general and its rights of way, and those zoned properties, particularly in commercial zones necessitates and suggests added flexibility of and with respect to the temporary uses and temporary use permits for the City's rights of way by private and quasi-private public use entities and;

WHEREAS, the City Commission desires and deems it desirable and appropriate and useful in the overall Land Use Plan to enhance the livability of the citizens at the same time protecting the safety and welfare of the citizens and to avoid further reliance on right of way closings and abandonment procedures to enhance the interests of the City to facilitate such temporary use permits, with respect to certain isolated and separate areas, of the City rights of way;

NOW, THEREFORE BE IT ORDAINED by the City Commission of the City of Red Bank, Tennessee as follows:

That Title 16, Chapter 13, Section 116 (11) of the Red Bank City Code be and the same is hereby amended as follows:

SECTION 1. Strike and delete subsection eleven (11) Permit Required to Obstruct Street, Sidewalks and Gutters; in its entirety and substitute in place thereof the following:

(11) Temporary Use Permit

(a) It shall be unlawful for any person to place an obstruction, any construction and/or any material of any kind or nature on, under, or over any City street, road, right of way or on City property unless such person has obtained a Temporary Use Permit from the City and which Temporary Use Permit shall specify the time period therefore or, in the context of the absence of a specific time period specified, such permit shall contain an unequivocal agreement of applicant/property owner/Permittee, to REMOVE any such obstruction upon written notice from the City, at any time or from time to time and to restore said right of way or property to its former condition.

(b) Any such Temporary Use Permit shall be upon a form/application agreement form and which supplied by the City Manager, shall be accompanied by an application fee of \$250 a form/application shall contain such additional terms, provisions and conditions as shall be determined in the discretion of the City Manager but which shall include, at a minimum, the following:

Indemnity agreement by the owner; commitment to remove any such temporarily permitted obstructions in the discretion of the City Manager upon notice at the expense of the owner/applicant; a commitment to vacate the property and temporary use upon not less than thirty (30) day notice from the City to do so; commitment and obligation to restore the City right of way to the condition existing prior to the issuance of the Temporary Use Permit; a commitment to abide by all applicable environmental regulations and clear of statement that the City and affected utilities maintain easements for continued usage of the right of way as is otherwise subject to the Temporary Use Permit.

(c) The City Manager shall specifically be authorized, of and with respect to any Temporary Use Permit issued to require a bond, from the applicant/owner/permittee, suitable in amount and necessary and appropriate to cover costs (1) removal of the obstruction at the expiration or revocation of the Temporary Use Permit; (2) to restore the portion of the right of way permitted for temporary usage to the condition prior to the issuance of the temporary usage permit.

(d) Before approving any such permit, the City Manager shall require a full set of plans for the Temporary Usage applied for and, the same, shall include any request for construction of any sort or any other construction quasi-permanent in nature, the City Manager shall first submit the matter to the Red Bank Planning Commission for review and/or recommendation as otherwise relates to anticipated further usage and/or need for usage of the portion of the public right of way as to which any such Temporary Use Permit is requested.

SECTION 2. Every section, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

SECTION 3. This Ordinance shall take effect from and after the date of its final passage the health, safety and welfare of the citizens of the City of Red Bank requiring it.

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Mayor

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City Recorder

November 20, 2018

Passed on First Reading

December 4, 2018

Passed on Second and Final Reading

Approved as to form:

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City Attorney

ORDINANCE NO. 18-1141

AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, AMENDING TITLE 1, CHAPTER 1, SECTION 1-103, TIME AND PLACE OF REGULAR MEETINGS

WHEREAS, the Board of Commissioners has held its regular semi-monthly meetings beginning at 7:00 p.m. on the first and third Tuesdays of each month at Red Bank City Hall for many years; and

WHEREAS, because of the varying schedules of the several present members of the Board of Commissioners, a 6:00 p.m. meeting time is more convenient; and

WHEREAS, in the opinion of the present Board of Commissioners, greater citizen participation and attendance at the regular semi-monthly meetings of the Board will likely occur in the event that the beginning time for the meeting is moved to 6:00 p.m.

NOW, THEREFORE, BE IT ORDAINED by the Commissioners of the City of Red Bank, Tennessee, as follows:

1. That the provisions of Title 1, Chapter 1, Section 1-103 be amended by deleting it in its entirety and substituting the following in its place and stead:

**1-103. TIME AND PLACE OF REGULAR MEETINGS.** The Board of Commissioners shall hold regular semi-monthly meetings at 6:00 p.m. on the first and third Tuesdays of each month at the City Hall, 3117 Dayton Boulevard, Red Bank, Tennessee.

2. Every section, sentence, clause, or phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

3. This Ordinance shall take effect from and after the date of its final passage the health, safety and welfare of the citizens of the City of Red Bank requiring it.

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MAYOR

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CITY RECORDER

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December 4, 2018

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PASSED ON FIRST READING

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December 18, 2018

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PASSED ON SECOND AND  
FINAL READING

APPROVED AS TO FORM:

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CITY ATTORNEY

## **ORDINANCE NUMBER 18-1142**

### **AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, AMENDING THE ZONING MAP TO REZONE PROPERTY AT 4701 DELASHMITT ROAD AT HAMILTON COUNTY TAX PARCEL NUMBER 109C H 032 FROM R1-A RESIDENTIAL TO R-T/Z TOWNHOUSE / ZERO LOT LINE ZONE, SUBJECT TO CONDITIONS**

**WHEREAS**, *Tennessee Code Annotated* (TCA) § 13-7-201 allows municipal governments the authority to regulate land use through zoning of its jurisdictional territory; and

**WHEREAS**, the Red Bank Municipal Planning Commission has certified zoning districts as provided for in TCA § 13-7-202; and

**WHEREAS**, TCA §13-7-204 authorizes amendments to the municipal zoning map and provides for that process; and

**WHEREAS**, the rezoning of the subject property to the R-T/Z zoning district would allow for development that promotes the goals of the Red Bank 2020 Land Use Plan; and

**WHEREAS**, the applicant, Ethan Collier, together with the property owner, Reinventing Chattanooga LLC, have requested that the property at 4701 Delashmitt Road be rezoned from R1-A to R-T/Z; and

**WHEREAS**, the legal description for said property is included in Exhibit A within Deed Book 11352 Page 0933; and

**WHEREAS**, Hamilton County Property Tax Office has assigned Map Tax and Parcel Number 109C H 032 to the property; and

**WHEREAS**, the Red Bank Planning Commission provided an opportunity for citizens to submit comments in favor of or against the proposed rezoning at an advertised public hearing held in conjunction with its regular meeting on November 15<sup>th</sup>, 2018; and

**WHEREAS**, the Red Bank Planning Commission recommended approval of the rezoning request, subject to conditions; and

**WHEREAS**, the City Commission heard a presentation by the Applicant describing the intended usage of the property, contingent upon the application being approved, and provided an opportunity for citizen's to submit comments in favor of or against the proposed rezoning at an advertised public hearing on December 18, 2018, prior to the final reading of this ordinance; and

**WHEREAS**, the City Commission finds that the proposed development afforded by the rezoning request would not have a negative impact on adjacent properties and is consistent with and promotes the goals of the Red Bank 2020 Land Use Plan.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RED BANK, TENNESSEE, AS FOLLOWS:**

Section 1. The Zoning Ordinances and Zoning Maps of this City are hereby amended by rezoning the property located at 4701 Delashmitt Road, shown in Exhibit B as Hamilton County tax parcel number 109C H 032 from R1-A Residential to R-T/Z Townhouse/Zero Lot Line, subject to the following condition(s).

- 1) density is limited to a maximum of 34 single-family dwellings, and
- 2) a 10-foot undisturbed vegetative buffer is provided along the R1-A zone boundary as shown in the site plan submitted to the Planning Commission.
- 3) In the event that construction does not commence within 365 days of final passage of this ordinance, the property shall automatically revert back to R-1A Residential zone.

Section 2. Upon the adoption of this Ordinance, the Zoning maps of the City shall be amended and changed to reflect this rezoning, subject to the conditions stated.

Section 3. The Zoning Ordinance and Zoning Maps of this City shall automatically revert to R-1A if the signature of the Applicant accepting and acknowledging the recited conditions is not affixed within thirty (30) days from and after the passage of this Ordinance on second and final reading.

BE IT FURTHER ORDAINED that every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not affect or impair any other section, sentence, clause, or phrase.

FINALLY, BE IT ORDAINED that this ordinance shall take effect from and after the date of its final passage, the public welfare of the City of Red Bank, Tennessee requiring it.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY RECORDER

December 18, 2018  
PASSED ON FIRST READING

January 15, 2019  
PASSED ON SECOND READING

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

ACCEPTED AS TO CONDITIONS:

\_\_\_\_\_  
Applicant Signature                      Date

\_\_\_\_\_  
Owner’s Signature                      Date



## EXHIBIT A. LEGAL DESCRIPTION OF SUBJECT PROPERTY

### Hamilton County Property Card

Location 4701 DELASHMITT RD	Property Account Number 33890	Parcel ID 109C_H_032
Property Type 22	Land Use 111	District RED BANK
Current Property Mailing Address		
Owner REINVENTING CHATTANOOGA LLC		City CHATTANOOGA
Address 3926 KENSINGTON DR		State TN
		Zip 37415
Current Property Sales Information		
Sale Date 2/28/2018		Legal Reference 11352-0933
Sale Price \$200,000		Grantor(Seller) GRIMSLEY JOHNNY A TR
Current Property Assessment		
Building Value \$65,700		
Xtra Features Value \$0		
Land Value \$98,800		
Total Value \$164,500		
Assessed Value \$41,125		
Narrative Description		
This property is classified as RESIDENTIAL with a(n) STANDARD style structure on this card, built about 1940 with 1,568 square feet.		
Land Description		
The total land area of this property is (9.29 acres).		
Legal Description		
DELASHMITT ROAD		

**LOCATED IN THE CITY OF CHATTANOOGA, HAMILTON COUNTY, TENNESSEE:**

**TRACT ONE (1):** BEING a part of the property conveyed to James Hardy and wife, Jessie Hardy, by Lou Trouser, described as follows: BEGINNING on an iron stake, the Southeastern corner of the Delashmitt Baptist Church property and in the Western line of the Delashmitt Road; thence North sixty-nine (69) degrees West, six hundred sixty-five and one-half ( $665 \frac{1}{2}$ ) feet, more or less, to an iron stake in the James Hardy Western line; thence South twenty-one (21) degrees West, along said line, three hundred sixty-eight (368) feet to an iron stake in the said Hardy line; thence on a course approximately South seventy-three (73) degrees thirty (30) minutes East, seven hundred thirty-one (731) feet, more or less, to a point in the Western line of Delashmitt Road, said point being located three hundred thirty-one (331) feet Southwardly along the line of said road from the beginning point; thence Northwardly, along the Western line of Delashmitt Road, said distance of three hundred thirty-one (331) feet to the point of beginning.

**TRACT TWO (2):** BEING a part of the property conveyed to James Hardy and wife, Jessie Hardy, by Lou Trouser, described as follows: BEGINNING at the Southwestern corner of Tract One (1), as above described; thence South twenty-one (21) degrees West, two hundred ninety-one (291) feet; thence South sixty-four (64) degrees East, four hundred thirty-seven (437) feet; thence Northwardly to a point in the southern line of Tract One (1) as above described, said point being located four hundred thirty-seven (437) feet Eastwardly along the Southern line of Tract One (1), as described above, from the Southwestern corner thereof; thence Westwardly along the Southern line of said Tract One (1), said distance of four hundred thirty-seven (437) feet to the point of beginning.

**TRACT THREE (3):** BEING a part of the property conveyed to Frank Hardy and wife, Callie Hardy, by instrument recorded in Book 1207, page 99, in the Register's Office of Hamilton County, Tennessee, and being more particularly described as follows: BEGINNING at a point, said point being the Northwestern corner of the said Hardy property; thence South Twenty (20) degrees Fifty-nine (59) minutes West, One Hundred Thirty-seven and  $15/100$  (137.15) feet to a point; thence South Sixty-eight (68) degrees Fifty-two (52) minutes Eleven (11) seconds East, Fifty-seven and  $86/100$  (57.86) feet to a point in the Western line of Sherry Lane; thence Northwardly and northeastwardly along the Western and Northwestern line of Sherry Lane, Two Hundred Ten (210) feet, more or less, to a point, said point being in the Northern line of the said Hardy property and in the Northern line of Sherry Lane, said point also being in an old fence line; thence Westwardly, along an old fence line, being the Northern line of said Hardy property One Hundred Sixty-four (164) feet, more or less, to the point of beginning.

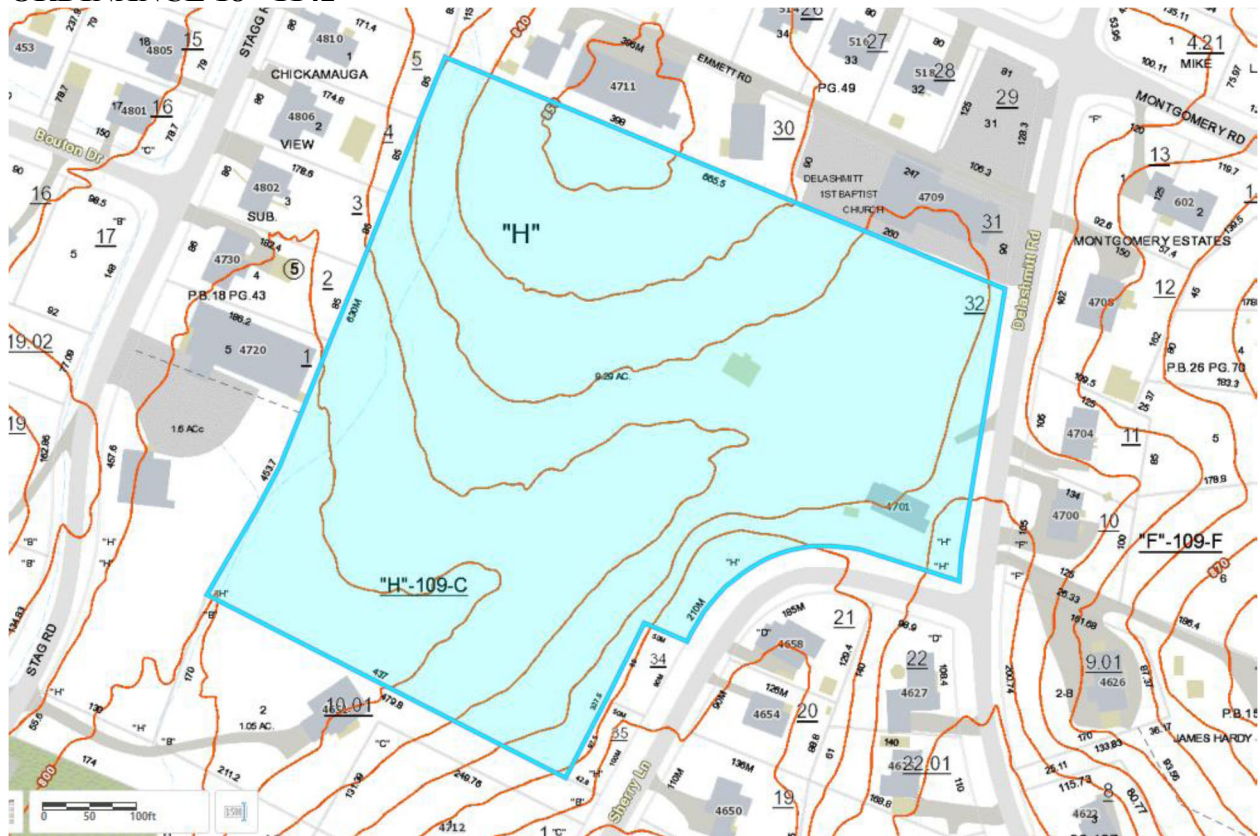
Less and except any property lying within Delashmitt Road, Sherry Lane, or any other roadway or right-of-way.

SUBJECT TO Easements to the park (if any) of an easement or right-of-way to East Tennessee Gas Company as recorded in Book 1023, Page 504, in the Register's Office of Hamilton County, Tennessee.

SUBJECT TO Any Governmental zoning and subdivision ordinances and regulations in effect thereon.

## EXHIBIT B. MAP OF SUBJECT PROPERTY

### ORDINANCE 18 - 1142



**ORDINANCE NO. 19-1143**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE TO ADOPT THE  
RED BANK DESIGN REVIEW ORDINANCE AND REPEAL CHARTER X OF  
THE RED BANK ZONING ORDINANCE**

**WHEREAS** Tennessee Code Annotated (T.C.A.) § 6-54-133 enables a municipality to adopt general guidelines for the exterior appearance of nonresidential property, multiple family residential property, and any entrance to a nonresidential development within the municipality;

**WHEREAS** the City Administration has identified the need to update and revise the existing design review requirements as currently codified at Red Bank City Code Title 14, Section 14-5- 101 et seq. of the Red Bank City Code; and

**WHEREAS**, the Planning Commission provided an opportunity to submit comments in favor of or against the drafted Design Review Ordinance at an advertised public hearing held in conjunction with its regular meeting on March 15, 2018

**WHEREAS**, the Red Bank Planning Commission has approved and recommended approval of the revisions and amendments hereafter set forth, as

**WHEREAS**, the City Commission provided an opportunity to submit comments in favor of or against the draft Design Review Ordinance at an advertised public hearing on February 5, 2019, prior to the final reading of this ordinance.

**NOW THEREFORE, BE IT ORDAINED**, by the City Commission of the City of Red Bank, Tennessee, that this Ordinance shall be known and cited as the “RED BANK DESIGN REIVIEW ORDINANCE”, as a part of the Red Bank Zoning Ordinance;

SECTION 1: The existing Red Bank Design Review Ordinance, #17-1090 as codified at Red Bank City Code Title 14, Section 5-101 et seq., is hereby REPEALED in its entirety, and there in substituted in its place and stead, at Title 14, Chapter 5, Section 101, the following:

**SEE EXHIBIT A, ATTACHED HERETO AND INCORPORATED HEREIN BY  
REFERENCE**

SECTION 2: The Red Bank Municipal Planning Commission shall be designated as the Design Review Commission.

**BE IT FURTHER ORDAINED**, that every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

**FINALLY, BE IT ORDAINED** that this ordinance shall take effect from and after the date of its final passage, the public welfare of the City of Red Bank, Tennessee requiring it.

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MAYOR

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CITY RECORDER

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January 15, 2019

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PASSED ON FIRST READING

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February 5, 2019

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PASSED ON SECOND AND FINAL READING

APPROVED AS TO FORM:

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CITY ATTORNEY

ORDINANCE NO. 19-1144

AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE,  
AMENDING THE ZONING MAP TO REZONE HAMILTON COUNTY TAX PARCEL  
109B-E-005 AT 4707 DAYTON BOULEVARD  
FROM C-1 COMMERCIAL ZONE TO L-1 LIGHT MANUFACTURING ZONE, SUBJECT  
TO CONDITIONS

WHEREAS *Tennessee Code Annotated* (TCA) § 13-7-201 allows municipal governments the authority to regulate land use through zoning of its jurisdictional territory; and

WHEREAS the Red Bank Municipal Planning Commission has certified zoning districts as provided for in TCA § 13-7-202; and

WHEREAS TCA §13-7-204 authorizes amendments to the municipal zoning map and provides for that process; and

WHEREAS the applicant, Eric Everette, has requested that the property at 4707 Dayton Boulevard be rezoned from C-1 Commercial Zone to L-1 Light Manufacturing; and

WHEREAS the Planning Commission provided an opportunity for the public to submit comments in favor of or against the proposed rezoning at an advertised public hearing held in conjunction with its regular meeting on December 20, 2018; and

WHEREAS, the Planning Commission did not make a recommendation to approve or not approve, as the Commissioners were equally divided in considering whether to recommend approval and/or denial; and

WHEREAS the City Commission provided an opportunity for the public to submit comments in favor of or against the proposed rezoning at an advertised public hearing prior to the final reading of this ordinance; and

WHEREAS the City Commission, having studied the rezoning request and believes that the rezoning from C-1 Commercial to L-1 Light Manufacturing, subject to restrictions and conditions, hereinafter stated, would be a reasonable usage of the property and would not adversely affect adjoining property.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RED BANK,  
TENNESSEE, AS FOLLOWS:

SECTION 1. The Zoning Ordinances and Zoning Maps of this City are hereby amended by rezoning from C-1 Commercial to L-1 Light Manufacturing, subject to conditions, the property located at 4707 Dayton Boulevard, Tax Map # 109B E 005, more particularly described per the attached Exhibit A, subject to the express condition that the only light manufacturing usage permitted is that of “Indoor Climate Controlled Storage”, and no other L-1 uses shall be

hereafter constructed, utilized or allowed, but that C-1 Commercial uses shall continue to be permitted.

SECTION 2. Provided that the zoning of the property will revert back to C-1 Commercial if “Indoor Climate Controlled Storage” operations are not commenced within one (1) year from and after the date of passage of this Ordinance or if “Indoor Climate Controlled Storage” operations shall thereafter cease, for any reason, for a period of one (1) year or greater.

SECTION 3. The Zoning Ordinance and Zoning Maps of this City shall automatically revert to C-1 if the signature of the applicant accepting and acknowledging the recited conditions is not affixed within thirty (30) days from and after the passage of this Ordinance on second and final reading.

SECTION 4. Upon the adoption of this Ordinance, the Zoning maps of the City shall be amended and changed so as to reflect this rezoning with the limited conditions noted.

SECTION 5. Every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

SECTION 6. The Zoning Map shall hereafter, subject to the provisions of Section 1, be marked to reflect “L-1, Conditional, Restricted”.

SECTION 7. This ordinance shall take effect from and after the date of its final passage, the public welfare of the City of Red Bank, Tennessee requiring it.

BE IT FURTHER ORDAINED that every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not affect or impair any other section, sentence, clause, or phrase.

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MAYOR OF RED BANK

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CITY RECORDER

February 5, 2019

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PASSED ON FIRST READING

February 19, 2019

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PASSED ON SECOND READING

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

ACCEPTED AS TO CONDITIONS

By: \_\_\_\_\_  
Eric Everette



**Exhibit A. Deed Book 10544 Page 065**

All that certain lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the City of Chattanooga, County of Hamilton, State of Tennessee.

**Tract I – Fee Simple**

Beginning at an iron pin at the Northeast corner of the herein described tract on the West margin of Dayton Boulevard, 40 feet from its center, said pin being 420.00 feet South, measured along the West margin of Dayton Boulevard from an iron pin at the intersection of the West margin of Dayton Boulevard with the South margin of Browntown Road, said thence South 22 degrees 00 minutes West 356.55 feet to a point; thence with a curve to the left (radius: 2904.87 feet; chord: South 21 degrees 01 minute West 98.40 feet) along its arc 98.45 feet to an iron pin, a corner of the W. L. Reeve, et ux., et al., property and the Southeast corner of the herein described tract, thence leaving the margin with Reeve's line North 69 degrees 53 minutes West 699.35 feet to an iron pin, the Southwest corner of the herein described tract; thence North 19 degrees 04 minutes East 500.00 feet to an iron pipe, the Northwest corner of the herein described tract; thence South 69 degrees 57 minutes East, passing a Reeve's corner with the Southwest corner of the Anna Meyer, et al., property (Deed Book 1212, page 445), and going a distance of 200.00 feet to an iron pin; thence North 59 degrees 51 minutes East, passing Meyer's Southeast corner, same being the Southwest corner of the Bailey Payne, et ux., property (Deed Book 2153, page 761), and going a distance of 219.40 feet to a point in a small tree; thence North 19 degrees 00 minutes East 193.18 feet to an iron pin on the South margin of Browntown Road, Bailey's Northeast corner and the Northwest corner of a 40-foot wide strip connecting the major portion of the herein described tract with Browntown Road; thence with the margin of the road South 70 degrees 56 minutes East 65.00 feet to an iron pin, the Northwest corner of Lot 1, Reeve and Cooley Subdivision (plat in Plat Book 49, page 223); thence leaving the margin of Browntown Road (radius: 25.00 feet; chord: South 64 degrees 02 minutes West 35.36 feet) along its arc 39.28 feet to an iron pin; thence South 19 degrees 00 minutes West, passing the Southwest corner of said Lot 1 at 119.40 feet and continuing with the remaining Ronnie R. Wallace property 75.19 feet, for a total distance of 194.89 feet to a P.K. nail in pavement; thence South 14 degrees 28 minutes East 70.73 feet to an iron pin; thence South 14 degrees 28 minutes East 55.00 feet to an iron pin; thence South 15 degrees 54 minutes West 88.40 feet to an iron pin; thence along a curve to the left (radius: 20.00 feet; chord: South 26 degrees 03 minutes East 26.74 feet) along its arc 29.29 feet to a paint mark on curb; thence South 68 degrees 00 minutes East 213.02 feet to a P.K. nail in pavement at front of curb; thence with a curve to the left (radius: 30.00 feet; chord: North 67 degrees 00 minutes East 42.43 feet) along its arc 47.12 feet to the point of beginning.

**Tract II- Easement**

TOGETHER WITH rights set out in DECLARATION OF EASEMENTS AND RESTRICTIVE COVENANTS, executed by Ronnie R. Wallace and recorded in Book 4163, page 74, in the Register's Office of Hamilton County, Tennessee.

NOTE: Being Parcel No. 109BE-005.00, of the City of Chattanooga, County of Hamilton.

Being the same premises conveyed to LN Red Bank, LLC  
in Special Warranty Deed recorded on June 7, 2006 in  
Book GI 7969, Page 762 and Instrument No. 2006060700246.

## Exhibit B. Map



<b>Location</b> 4707 DAYTON BLVD	<b>Property Account Number</b> 33455	<b>Parcel ID</b> 109B_E_005
<b>Property Type</b> 08	<b>Land Use</b> 541	<b>District</b> RED BANK
<b>Current Property Mailing Address</b>		
Owner RED BANK COMMONS, LLC		City COLLIERVILLE
Address PO BOX 1509		State TN
		Zip 38027
<b>Current Property Sales Information</b>		
Sale Date 8/12/2015		Legal Reference 10544-0065
Sale Price \$475,000		Grantor(Seller) LN RED BANK LLC
<b>Current Property Assessment</b>		
Building Value \$488,300		
Xtra Features Value \$75,900		
Land Value \$647,300		
Total Value \$1,211,500		
Assessed Value \$484,600		
<b>Narrative Description</b>		
This property is classified as COMMERCIAL with a(n) SUPERMARKET style structure on this card, built about 1993 with 44,404 square feet. Total square footage for all structures on this property is 44,404.		
<b>Land Description</b>		
The total land area of this property is (455X700IRR).		
<b>Legal Description</b>		
W/S DAYTON PIKE		

ORDINANCE NO. 19-1145

AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO REPEAL AND REPLACE ORDINANCE NO. 18-1140, TO AMEND TITLE 16, CHAPTER 1, SECTION 16-116 (11) OF THE RED BANK CITY CODE IN ORDER TO PERMIT, UNDER CERTAIN LIMITED CIRCUMSTANCES AND CONDITIONS OF THE UTILIZATION OF THE PUBLIC RIGHT OF WAY FOR PRIVATE OR QUASI-PRIVATE PURPOSES.

WHEREAS, City Commission recognizes and declares that public rights of way are a public resource and an integral element in shaping and maintaining the community. Rights of way contain roads and other public services, allow access to and servicing of, individual properties alone, its frontages and provides shape and form to City neighborhoods and to commercial and industrial areas. It is the policy of the City of Red Bank, its City Commission and City Planning agency, and other public agencies to retain rights of way for public use and only to recommend closures, abandonments, and/or temporary usage permits when it is concluded that the public has no foreseeable needs to retain such rights of way and/or to portions thereof and that if abandonment, closure and/or issuance of temporary use permits to achieve a significant private and/or public interest is in the overall best interest of the City of Red Bank; and

WHEREAS, the City of Red Bank has long recognized and as provided by Ordinance and policy that it is unlawful for any person to obstruct any street, gutter, sidewalk or right of way within the City by placing or allowing thereon any material, by constructing or placing therein any structure, obstructing, landscaping or other material which may constitute an obstruction thereof and except for such temporary and reversible usage as may be expressly permitted by the City and;

WHEREAS, the City's Land Use Plan and continuing efforts to develop and re-develop the City in general and its rights of way, and those zoned properties, particularly in commercial zones necessitates and suggests added flexibility of and with respect to the temporary uses and temporary use permits for the City's rights of way by private; and quasi-private public use entities and;

WHEREAS, the City Commission desires and deems it desirable and appropriate and useful in the overall Land Use Plan to enhance the livability of the citizens while at the same time protecting the safety and welfare of the citizens and to avoid further reliance on right of way closings and abandonment procedures to enhance the interests of the City and to facilitate such temporary use permits, with respect to certain isolated and separate areas, of the City rights of way;

NOW, THEREFORE BE IT ORDAINED by the City Commission of the City of Red Bank, Tennessee as follows:

That Title 16, Chapter 13, Section 116 (11) of the Red Bank City Code be and the same is hereby amended as follows:

SECTION 1. Strike and delete subsection eleven (11) Permit Required to Obstruct Street, Sidewalks and Gutters; in its entirety and substitute in place thereof the following:

(11) Temporary Use Permit

(a) It shall be unlawful for any person to place an obstruction, any construction and/or any material of any kind or nature on, under, or over any City street, road, right of way or on City property unless such person has first obtained a Temporary Use Permit from the City and which Temporary Use Permit shall specify the time period therefore or, in the context of the absence of a specific time period specified, such permit shall contain an unequivocal agreement of applicant/property owner/Permittee, to REMOVE any such obstruction upon written notice from the City, at any time or from time to time and to restore said right of way or property to its former condition. Any time period specified permit shall also contain an unequivocal commitment of the permitted to cease such use and to remove any property or personalty at the end of the permitted time period.

(b) Any such Temporary Use Permit shall be upon a form/application agreement form supplied by the City Manager, and which shall be accompanied by an application fee of \$250 and which form/application shall contain such additional terms, provisions and conditions as shall be determined in the discretion of the City Manager but which shall include, at a minimum, the following:

(1) Indemnity agreement by the owner; commitment to remove any such temporarily permitted obstructions in the discretion of the City Manager upon notice at the expense of the owner/applicant; a commitment to vacate the property and temporary use upon not less than thirty (30) day notice from the City to do so; commitment and obligation to restore the City right of way to the condition existing prior to the issuance of the Temporary Use Permit; a commitment to abide by all applicable environmental regulations and clear of statement that the City and affected utilities maintain easements for continued usage of the right of way as is otherwise subject to the Temporary Use Permit.

(2) A full set of plans for the Temporary Usage applied for and, which, shall include any request for construction of any sort or any other construction quasi-permanent in nature.

(c) The City Manager shall specifically be authorized, of and with respect to any Temporary Use Permit issued to require a bond, from the applicant/owner/permittee, suitable in amount and necessary and appropriate to cover costs of: (1) removal of the obstruction at the expiration or revocation of the Temporary Use Permit; (2) to restore the portion of the right of way permitted for temporary usage to the condition prior to the issuance of the temporary usage permit.

(d) The City Manager shall first submit the matter to the Red Bank Planning Agency for review and/or recommendation as otherwise relates to anticipated further usage and/or need for usage of the portion of the public right of way as to which any such Temporary Use Permit is requested.

SECTION 2. Only the City Commission can act upon a temporary use permit application and any such permit approval and issuance may include such other conditions as the Commission shall determine is appropriate on a case by case basis to protect the best interests of the City. No permit shall issue unless at least three (3) members of the City Commission shall vote affirmatively in a roll call vote to issue such permit.

SECTION 3. Every section, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

SECTION 4. This Ordinance shall take effect from and after the date of its final passage the health, safety and welfare of the citizens of the City of Red Bank requiring it.

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Mayor

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City Recorder

February 5, 2019

Passed on First Reading

February 19, 2019

Passed on Second and Final Reading

Approved as to form:

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City Attorney

ORDINANCE NO. 19-1146

AN ORDINANCE GRANTING A FRANCHISE TO ZAYO GROUP, LLC, FOR THE PURPOSE OF ALLOWING IT TO CONSTRUCT, INSTALL AND OPERATE CERTAIN TELECOMMUNICATIONS WIRES AND CABLING WITHIN THE PUBLIC RIGHTS-OF-WAY IN ORDER TO PROVIDE TELECOMMUNICATIONS SERVICES WITHIN THE CITY; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR REGULATION AND USE OF THE SYSTEM AND THE PUBLIC RIGHTS-OF-WAY IN CONJUNCTION WITH THE CITY'S RIGHT-OF-WAY ORDINANCES; AND PRESCRIBING PENALTIES AND REMEDIES FOR THE VIOLATIONS OF THE PROVISIONS HEREOF.

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This Franchise Ordinance and Agreement (this "Agreement") is made this 20 of March, 2019 (the "Effective Date") by and between the City of Red Bank, Tennessee, (the "City"), and ZAYO GROUP, LLC and its subsidiaries, a Delaware limited liability company authorized to do business within the State of Tennessee, and having its principal office at ZAYO GROUP, LLC, 1805 29th street, Boulder, CO 80301 ("ZAYO" or "Franchisee").

RECITALS

WHEREAS, ZAYO is a limited liability company duly organized according to the laws of the State of Colorado and with its principal place of business located at 1805 29<sup>th</sup> Street, Boulder, Colorado 80301 and is authorized by the State of Tennessee and the Federal Communications Commission to provide Telecommunications Services; and

WHEREAS, ZAYO proposes to construct, maintain, operate and use a fiber optic telecommunications network within a specified portion of the City's rights-of-way exclusively for telecommunications service; and

WHEREAS; the City desires to permit, under the terms and conditions set forth herein, the placement and use of said facilities within certain of its rights-of-way, subject to the compliance of ZAYO, its agents, employees, contractors, successors and assigns with all current and future lawful ordinances, resolutions, and other current and future lawful regulations of the City, and with the terms of this Agreement; and

WHEREAS, based on Franchisee's representations and information, and in response to its request for a franchise, the City Commission has determined that the terms and conditions set forth herein, the grant of a new, nonexclusive Franchise to Franchisee on the terms and conditions herein and subject to applicable law, is consistent with the public interest; and

WHEREAS, the City and Franchisee have reached agreement on the terms and conditions set forth herein;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF RED BANK, TENNESSEE:

SECTION ONE: This Ordinance shall be entitled the ZAYO Group, LLC Telecommunications Franchise Ordinance:

**Article 1. Definitions.**

For the purpose of this Franchise, and the interpretation and enforcement thereof, the following words and phrases shall have the following meanings:

"Affiliate" means a person that directly, or indirectly, through one or more intermediaries, owns, controls, is owned or controlled by, or is under common ownership or control with another person.

"City" means the City of Red Bank, Tennessee, and where appropriate, its officers, agents, employees and volunteers; City does not include the Electric Power Board of Chattanooga (EPB), an independent board of the City of Chattanooga, Tennessee which has separate property rights, including its easements, poles, conduits, etc. The ability, rights, if any, of the Franchisee to use EPB facilities are outside of the authority of the City of Red Bank and outside the scope of this Ordinance/Franchise Agreement.

"City Rights of Way" means and includes all City owned rights-of-way set out in the area included in the map attached to this Franchise as Exhibit A.



"City Manager" means the person and office of the City Manager for the City of Red Bank and her or his designee(s).

"Communications Act" means the Communications Act of 1934, as amended by the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, and as may be amended from time to time.

"Conduit" means a duct, pipe, tube, channel or similar item for carrying wires, lines, cables, fiber optic cable, under existing city rights-of-ways within the area included in the map attached to this Franchise or other technology for the provision of Telecommunications Service.

"Franchise" means the right of the Franchisee, governed hereby, to operate a telecommunications system in the city for a limited term and in a manner consistent with this Agreement.

"Franchisee" means ZAYO Group, LLC, it's lawful and City approved successors, assigns and transferees.

"Law" means any local, state or federal legislative, judicial or administrative order, certificate, decision, statute, constitution, ordinance, resolution, regulation, rule, tariff, guideline or other requirement, as amended, now in effect or subsequently enacted or issued during the term of this Franchise, including, but not limited to, the Communications Act of 1934, as amended by the Telecommunications Act of 1996, Pub. L. No. 104-104 101(a), 110 Stat. 70 codified at 47 U.S.C., and all orders, rules, tariffs, guidelines and regulations issued by the Federal Communications Commission or the governing state authority pursuant thereto.

"Mayor" means the duly elected and then serving in office Mayor of the City of Red Bank.

"MUTCD" means the then current edition of the Manual on Uniform Traffic Control Devices.

"Other Ways" means the highways, streets, alleys, utility easements or other rights-of-way within the City, but under the jurisdiction and control of a governmental entity other than the City.

"Overhead Facilities" means city owned utility poles, utility facilities and telecommunications facilities, if any, located above the surface of the ground, including the underground supports and foundations for such facilities.

"Person" means any natural person, corporation, company, association, joint stock company or association, firm, partnership, Limited Liability Company, joint venture, trust, individual and any other legally recognized entity, private or public, whether for profit or not-for-profit and includes the officers, agents, employees or representatives of such entity where appropriate.

"Public Way" or "Rights-of-Way" means and includes all city streets and city owned or controlled utility easements, as those terms are defined herein, now or hereafter held or controlled by the City, but only to the extent of the City's right, title, interest or authority to grant a license or franchise to occupy and use such streets and easements for the construction and operation of Telecommunications Facilities.

"State" means the State of Tennessee.

"Telecommunications Carrier" means and includes every person that directly or indirectly owns, controls, operates or manages plant, circuits, equipment or property (Telecommunications Facilities) within the City, used or to be used for the purpose of offering telecommunications service.

"Telecommunications Facilities" means the plant, equipment and property, including but not limited to, fiber optic cables, copper cables, lines, wires, Conduits, inner ducts, pedestals, poles, electronics and other appurtenances or technology used or to be used to provide or offer Telecommunications Services set out in the area included in the map attached to this Franchise.

"Telecommunications Provider" means and includes every person who provides Telecommunications Service over Telecommunications Facilities without any ownership or management control of the Telecommunications Facilities.

"Telecommunications Service or Services" means the providing or offering to a user for rent, sale or lease, or in exchange for other value received, the transmission, between or among points specified by the user, of information of the user's choosing or telecommunications facilities,





without change in the form or content of the information as sent and received. Telecommunications Service does not include cable service.

"Underground Facilities" means Telecommunications Facilities or other City owned utility facilities located under the surface of the ground, excluding the underground foundations or supports for Overhead Facilities.

"Utility" or "Public Utility" shall be defined in accordance with applicable state laws regarding public utilities.

"Utility Easement" or "Public Utility Easement" means any easement held by the City and acquired, established, dedicated or devoted for public utility purposes not inconsistent with Telecommunications Facilities.

## **Article 2: Grant of Authority.**

ZAYO is hereby granted a nonexclusive revocable franchise to construct, maintain, and operate its Telecommunications Facilities in, over, under, and across certain Public Rights-of-Way within the City, as shown on EXHIBIT A, attached hereto and incorporated herein by reference ("the City Right-of-Way"), subject to and conditioned upon the compliance of ZAYO, its agents, employees, contractors, successors and assigns with the provisions of this Agreement, the City's regulations, and all current and future ordinances, resolutions, and regulations of the City of Red Bank, provided that any such future ordinances, resolutions, or regulations shall not impair any lawful contractual rights of Zayo contained herein, and shall be applied on a nondiscriminatory basis among telecommunications providers. The City specifically reserves the right to grant other licenses, or franchises or other rights, as it deems appropriate for other Persons to install Telecommunications Facilities on a competitively neutral and nondiscriminatory basis. Zayo agrees that it will not install anything within any City right-of-way which will adversely affect any City property, including any traffic signals, sidewalks or street light poles within City rights-of-ways or adversely affect any existing utilities. Nothing in this franchise shall be deemed to grant Franchisee any use of City property, such as traffic signals, traffic signs, sidewalks or street light poles within City rights-of-ways or authorize any use of other utilities' property including specifically and not by way of limitation any, EPB facilities or property.

## **Article 3: Compliance with Applicable Law. City and ZAYO shall at all times comply with all applicable Laws.**

## **Article 4: Permits.**

As required by Law, ZAYO, its agents, employees, contractors, successors and assigns shall obtain from the City permits for the excavation, construction, installation of facilities, repair of facilities or any work to be performed within the City Right-of-Way prior to commencement of said work; provided, however, that in emergency situations, where repair work on existing facilities should be done immediately and a permit cannot be reasonably and practically obtained prior to the work by reason of the fact that City offices are not open for business, a permit shall not be required prior to commencement of work. In such emergency circumstances, however, ZAYO shall obtain a permit the next regular City business day following said emergency. For purposes of this section, an "emergency" shall be defined as a reasonably unforeseen occurrence with an imminent potential to endanger personal safety or health, or cause substantial damage to property, that calls for immediate action. The City has the right to require use of existing facilities, where facilities are available on reasonable terms and conditions before a permit for any work to be performed is issued. In any such event, prior to commencement of work the Franchisee shall notify the City Police department prior to the commencement of such activities and shall nevertheless adhere to and obey all regulations related to traffic control, barricades and MUCTD required safety practices.

4.1 System cable and facilities may be constructed overhead where poles now exist and electric or telephone lines or both are now overhead. However, where no overhead poles exist, and where all other electric and telephone utilities are underground (except those facilities owned by the Tennessee Valley Authority and/or facilities owned or controlled by EPB or any other utility service not owned by the City, and as to which City has no jurisdiction or authority to permit Franchisee to access same), all cables and facilities, excluding System passive or active electronics that may be housed in low-profile, above-ground pedestals, shall be constructed underground. Whenever and wherever electric lines and telephone lines are moved from overhead to underground placement, all Cable System cables shall be similarly moved at no cost to the City, provided however, if any Person is reimbursed by the City or any other entity in conjunction with



such electric line, telephone line, or cable relocation, Franchisee shall be likewise reimbursed by the City or such other reimbursing entity. The City shall not take any action which would restrict or limit the Franchisee's ability to obtain reimbursement from a third party or other governmental agency and nothing contained herein shall require City to reimburse Franchisee unless City shall directly (and not using grant funding) reimburse such other Person(s).

4.2 Erection, Removal and Common Use of Poles. No poles or other wire holding structures shall be erected and used solely for cable service purposes by the Franchisee without prior approval of the City Manager or designee with regard to location, height, type and any other pertinent aspect, which approval shall not be unreasonably withheld. However, no location of any pole or wire-holding structure of the Franchisee shall be a vested interest and such poles or structures shall be removed or modified by the Franchisee at its own expense whenever the governing body reasonably determines that the public safety and/or convenience would be enhanced thereby.

#### **Article 5: Issuance of Permits and Permit Fee.**

Upon execution of this Franchise and performance of the obligations set forth herein to be performed prior to permit issuance, the City will issue all permits necessary to the installation of ZAYO's Telecommunications Facilities, in accordance with the City's standard permitting procedures. ZAYO shall pay to the City for each permit granted by the City a fee for the review of plans and inspection of the work in accordance with the ordinances, resolutions, rules, regulations and policies of the City.

#### **Article 6: Term and Revocation of Franchise.**

6.1 The initial term of this Franchise (the "Initial Term") shall be for a period of five (5) years beginning on the date of its execution by all of the appropriate officials shown on the signature page of this Franchise. The Initial Term shall be automatically renewed or extended for three (3) consecutive terms of five (5) years each ("Extension Term"), unless either party provides ninety (90) days prior written notice to the other party of its intent not to renew or unless terminated in accordance with the provisions of this Franchise. The Initial Term and Extension Term together shall be the "Term" of this Agreement.

6.2 If the City has reason to believe that ZAYO is materially in violation of this Agreement or other applicable City ordinances, resolutions, rules, regulations or policies, the City shall notify ZAYO in writing of the violation setting forth the nature of such violation. Within ten (10) days of receipt of such notice, ZAYO shall respond in writing providing an explanation or documentation to support that the violation did not occur. Except where the violation involves a circumstance posing imminent danger to personal safety or health or imminent damage to property, ZAYO shall be allowed thirty (30) days to cure violations after written notice is received from the City; provided if the violation is such that it cannot reasonably be cured in thirty (30) days, and ZAYO shall commence the necessary work or action to cure such violation within such thirty (30) days and diligently proceed to cure it, ZAYO may be allowed such additional time to cure it as may be necessary, so long as the work or action to cure the violation is being diligently pursued as determined by the City.

6.3 In addition to all other rights and powers retained by the City under this Agreement or otherwise, the City reserves the right to revoke this license, and all rights and privileges of ZAYO hereunder shall cease, in the event of material breach, subject to reasonable notice and opportunity to cure, of its terms and conditions. A material breach by ZAYO shall include, but shall not be limited to, the following:

6.3.1 ZAYO's violation of any material provision of this Agreement or any material rule, order, regulation or determination of the City made pursuant to this Agreement;

6.3.2 ZAYO's failure to compensate the City properly as required in this Agreement;

6.3.2 ZAYO's attempt to evade any material provision of this Agreement or to practice any fraud or deceit upon the City or City residents, businesses or property owners;

6.3.3 ZAYO's failure to complete its construction and provide services as described herein;

6.3.4 ZAYO's attempt to sell, transfer, convey or assign any of the rights and privileges granted pursuant to this Agreement without the City's prior written approval;

6.3.5 ZAYO's failure to comply with any lawful City permit, ordinance, resolution, rule, regulation or policy.



## **Article 7: Severability.**

If any section, subsection, sentence, clause, phrase, or other portion of this Franchise, or its application to any Person, is, for any reason, declared invalid, in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

## **Article 8: Assignment.**

ZAYO shall not assign this Franchise, in whole or in part, without the prior consent of the City Council, which consent, shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, without such consent ZAYO may a) assign to an Affiliate, b) assign collaterally to a lender as security for a debt or c) assign as part of a merger, corporate reorganization or sale of all or substantially all of its assets or stock.

## **Article 9: No Property Interest.**

This Franchise is not a grant by the City of any fee simple property interest and is made subject and subordinate to the prior and continuing right of the City to use the Public Rights-of-Way as a street and for the purpose of laying, installing, maintaining, repairing, protecting, replacing and removing sanitary sewers, water mains, storm drains, gas mains, poles and for other municipal uses and with right of ingress and egress, along, over, across and in said Public Rights-of-Way.

## **Article 10: Public Works.**

Should the location of the Telecommunications Facilities of ZAYO interfere with any proposed construction, maintenance or repair of public works or improvements by the City, ZAYO, after reasonable advance written notice from the City, at ZAYO's sole expense, shall protect or relocate the Telecommunications Facilities or any applicable part thereof, as directed by the City or other governmental authorities having jurisdiction.

## **Article 11: Use of Public Ways.**

11.1: ZAYO, in any opening it shall make in the Public Ways of the City, shall be subject to the provisions of this Franchise and to all applicable ordinances, codes and regulations of the City. The Telecommunications Facilities of ZAYO shall be located so as not to interfere with the public safety or with the convenience of persons using the Public Ways.

11.2: The City reserves the right, by ordinance or resolution of the City Council, or otherwise through proper representatives of the City, to designate specifically the location of the Telecommunications Facilities of ZAYO with reference to municipal facilities, such as sewer and water mains, drainage facilities, fiber optic cable, signal poles and lines and similar services, other facilities, such as public telephone utilities, public electric utilities, public cable television utilities, and railway communication and power lines, in such a manner as to protect the public safety and public and private property and to facilitate the creation of a convenient, attractive and harmonious community. Failure by the City to so designate does not relieve ZAYO of its responsibilities in matters of public safety as provided in this Franchise. ZAYO shall construct, maintain and locate its Telecommunications Facilities so as not to interfere with the construction, location and maintenance of sewer, water, drainage, electrical, signal and fiber optic facilities of the City.

11.3: The City does require that written permits, in any and all cases, be obtained by ZAYO whenever it becomes necessary for ZAYO to excavate in the Public Ways in order to install, construct, maintain or extend the Telecommunications Facilities. Such permits are applicable to any and all types of excavations in the Public Ways. ZAYO and its contractors shall in all instances comply with all Ordinance requirements and policies of the City with respect to "street cuts" and "sidewalk cuts" and openings, including, as applicable and without limitation all surety bonding and street cut fee requirements. Further, and to the extent applicable, and where and if any proposed excavation or construction shall impact or potentially impact any underground or above ground utility fixtures or facilities, Franchisee shall also comply with and adhere to all notice and permitting requirements of such utility providers potentially impacted, including without limitation water, electricity, natural gas and waste water treatment utility providers. Exceptions to the requirement for a previously issued written permit may be allowed in cases of emergencies (conditions involving danger of personal injury or property damage). In the case of emergency excavations made in the Public Ways without a permit, ZAYO shall make a report of each such excavation to the City, the next day that City Hall is open for business and pay such fee as may be established by the City for excavations in Public Ways, even in emergency circumstances. In any



such event, prior to commencement of work the Franchisee shall notify the City Police department prior to the commencement of such activities and shall nevertheless adhere to and obey all regulations related to traffic control, barricades and MUTCD required safety practices.

Any permit applications and inspections related to repair of excavations shall be promptly acted upon by the City so as not to unreasonably delay ZAYO in discharging its public service obligation.

11.4: After installation, repair or extension of the Telecommunications Facilities or any portion thereof or any pavement cut by ZAYO in any Public Way of the City, the incidental trenches or excavations shall be refilled by ZAYO in a manner consistent with the City's ordinances and policy requirements for street cuts, sidewalk cuts and any other excavation of public property. . Pavement, sidewalks, curbs, gutters or any other portions of Public Ways damaged, disturbed or destroyed by such work shall be promptly restored and replaced with like materials to a condition that is consistent with city codes, standards and requirements by ZAYO at its own expense; however, where it is necessary, and if authorized by the City, in order to achieve repair or replace that is consistent with city codes, standards and requirements, ZAYO shall use materials whose type, specification and quantities exceed those used in the installation, and ZAYO at its own expense shall provide such materials. Where a cut or disturbance is made in a section of sidewalk or paving, rather than replacing only the area actually cut, ZAYO shall replace the full width of the existing sidewalk or appropriate sections of paving as determined by the City Manager and the full length of the section or sections cut, a section being defined as that area marked by expansion joints or scoring or as determined by the City Manager. ZAYO shall maintain, repair and keep in good condition for a period of two (2) years following such disturbance all portions of Public Ways disturbed by ZAYO, provided such maintenance and repair shall be necessary because of defective construction, workmanship or materials by ZAYO or its agents or contractors or by reason of failure to adhere to applicable Ordinance requirements.

1 1.5: ZAYO shall promptly remove or correct any obstruction, damage, or defect in any Public Way that was caused by ZAYO in the installation, operation, maintenance or extension of ZAYO's Telecommunications Facilities. Any such obstruction, damage, or defect which is not promptly removed, repaired or corrected by ZAYO after proper notice to do so, given by the City to ZAYO, may be removed or corrected by the City, and ZAYO shall reimburse the City for the reasonable, actual cost thereof. If ZAYO fails to so reimburse the City, the City shall have the right, in addition to any other rights existing at law or equity, to place a lien upon any of ZAYO's properties or assets within the Public Ways, subject to any prior existing liens. Any expense, cost, or damages incurred for repair, relocation, or replacement to City or other utility owned and or operated water, sanitary sewer, storm sewer, storm drainage, communication facilities or other property resulting from construction, operation, maintenance or extension of ZAYO's Telecommunications Facilities shall be borne by ZAYO and any and all expense and cost incurred in connection therewith by the City or such other utility(ies) shall be fully reimbursed by the ZAYO to the City, or as is applicable to such other utility(ies).

(a) If weather or other conditions do not permit the immediate and complete restoration required by this Article, ZAYO shall temporarily restore the affected Public Ways or property to a serviceable condition. Such temporary restoration shall be at the ZAYO's sole expense and ZAYO shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration, and shall make and maintain the affected areas suitable for temporary use with all necessary barricades and safety measures in place. When such areas are governed by the requirements of MUTCD, then all applicable provisions thereof shall be adhered to.

(b) ZAYO or other person acting in its behalf shall use suitable barricades, flags, flagmen, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such ways or property and shall comply with all federal, state, and local laws and regulations, including the Manual on Uniform Traffic Control Devices (MUTCD) flagging and other safety requirements.

1 1.6: ZAYO shall not open, disturb or obstruct, at any one time, any more of the Public Ways singularly or in succession, or in contravention of any requirements of the City issued permit in laying or repairing its Telecommunications Facilities. ZAYO shall not permit any Public Ways so opened, disturbed or obstructed by it in the installation, construction, repair or extension of its Telecommunications Facilities to remain open or the Public Way disturbed or obstructed for a longer period of time than reasonably shall be necessary as required by the applicable City issued





permit, whichever time period shall be shorter. In all cases where any Public Ways shall be excavated, disturbed or obstructed by ZAYO, ZAYO shall take all precautions necessary or proper or required for the protection of the public and shall maintain adequate warning signs, barricades, signals and other devices necessary or proper to adequately give notice, protection and warning to the public of the existence of all actual conditions present.

11.7: Whenever the City (or as applicable any current or existing utility services provider not owned or controlled by the City) shall widen, reconstruct, realign, pave or repave, or otherwise work on or in any Public Ways, or shall change the grade or line of any Public Ways, or shall construct or reconstruct any water, sanitary sewer, storm sewer, drainage or communications facility of the City, it shall be the duty of ZAYO at ZAYO's cost and expense to move, alter or relocate its Telecommunications Facilities or any part thereof as reasonably requested by the City or such other utility provider as may be applicable. Upon written notice by the City Manager or such other utility of the intention to perform work as specified above, ZAYO shall within a reasonable period of time accomplish its obligation in accordance with and to conform to the plans of the City or such other utility for such construction, reconstruction or improvements. Should ZAYO fail, refuse or neglect to comply with such notice, the Telecommunications Facilities or any part thereof may be removed, altered or relocated by the City or such other utility, the cost of which shall be paid by ZAYO, and the City shall not be liable to ZAYO for any damages resulting from such removal, alteration or relocation.

11.8 ZAYO or other person acting in its behalf shall use suitable barricades, flags, flagmen, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such ways or property and shall comply with all federal, state, and local laws and regulations, including the Tennessee Department of Transportation and MUTCD flagging and other safety requirements.

11.9 All trees, landscaping and grounds removed, damaged or disturbed as a result of the construction, installation maintenance, repair or replacement of Telecommunications Facilities must be replaced or restored as nearly as may be practicable, to the condition existing prior to performance of work. ZAYO shall abide by all ordinances and regulations and Permit requirements governing trees and landscaping and shall abide by all directions of the City Manager or her or his designees issued pursuant to such ordinances and regulations and Permit requirements.

## **Article 12. Fees and Charges**

12.1 ZAYO shall pay to the City the fees and charges as specified in and in accordance with the terms and conditions of EXHIBIT B, attached hereto and incorporated herein by reference.

12.2 Non-payment of any amount due under this Franchise shall constitute a default of this Franchise unless the non-payment is cured as hereinafter provided.

12.3 At City's request ZAYO shall furnish a bond or other satisfactory evidence of security in such amount as the City may from time to time require, in an initial amount of the annual franchise fee as calculated in EXHIBIT B, to guarantee payment of any sums which may become due to City for fees due hereunder or charges for work performed for ZAYO's benefit pursuant to this Franchise, upon termination of any franchise issued hereunder. In addition, and prior to the commencement of any construction and or excavation of any city street, sidewalk, right of way or city owned property, ZAYO will provide a running Bond regarding street and sidewalk cuts to address costs of repair and replacement of street and/or sidewalk cuts and excavations.

12.4 ZAYO shall continue to be responsible for franchise fees for use of the rights-of-ways until City receives written notice of removal, whichever is sooner.

## **Article 13: Maintenance, Repair and Emergency Work:**

ZAYO shall maintain its Telecommunications Facilities in a good and safe condition and in a manner that complies with all applicable Laws, codes and regulations.

13.1 The construction, expansion, reconstruction, excavation, use, maintenance and operation of ZAYO's network, facilities and property shall be subject to all lawful police regulations of the City and performed in accordance with the City's standards, policies and code requirements for utility location and coordination.

13.2 Within thirty (30) days of completion of each of ZAYO's Telecommunication Facilities, ZAYO shall supply the City with a complete set of "as built" drawings for approval. Further, after each replacement, relocation, reconstruction, expansion, or removal of its facilities,



ZAYO shall promptly notify the City of the exact changes made and shall provide a new set of "as built" drawings of each modification to the City.

13.3 Upon request of the City, ZAYO shall remove and abate any portion of the network or any facility that City determines is reasonably dangerous to life or property, and if ZAYO, after notice, fails or refuses to act, the City may remove or abate the same, at the sole cost and expense of ZAYO, all without compensation or liability for damages to ZAYO. ZAYO shall promptly restore the City Right-of-Way to its condition prior to ZAYO's construction, maintenance or excavation, to the satisfaction of the City. ZAYO shall excavate only for the construction, installation, expansion, repair, removal, and maintenance of all or a portion of its network.

#### **Article 14: Safety Standards.**

ZAYO shall at all times employ a reasonable standard of care and shall install and maintain and use approved methods and devices for preventing failure or accidents which are likely to cause damages, injuries or nuisances to the public. ZAYO shall at all times, at a minimum adhere to all requirements of MUTCD with respect to work in any public way.

#### **Article 15: Police Power.**

All rights and privileges granted hereby are subject to the lawful exercise of the police power of the City to adopt and enforce local laws, rules and regulations necessary to the health, safety and general welfare of the public.

#### **Article 16: Removal of Unauthorized Facilities:**

Within not more than thirty (30) days following written notice from the City, ZAYO shall, at its own expense, remove any unauthorized Telecommunications Facility from the Public Ways or other areas of the City. A Telecommunications Facility is unauthorized and subject to removal in the following circumstances:

16.1: Upon expiration or termination of this Franchise, unless replaced by a subsequent Franchise between the City and ZAYO that becomes effective prior to the expiration or termination of this Franchise.

16.2: Upon abandonment of a Telecommunications Facility within the Public Ways of the City.

16.3: If the system or facility was constructed or installed without the prior issuance of a required construction permit or otherwise in contravention of the terms of any such permit.

16.4: If the system or facility was constructed or installed at a location not permitted by this Franchise.

#### **Article 17 Emergency Removal or Relocation of Facilities.**

The City retains the right to move any Telecommunications Facilities located within the Public Ways or other areas of the City as the City may reasonably determine to be necessary in response to an imminent public health or safety emergency; provided that prior to taking such action the City will make reasonable attempts to notify ZAYO in of any such emergencies that may impact its Telecommunications Facilities by either attempting to notify ZAYO or the appropriate notification center as hereinafter provided.

#### **Article 18: Damage to ZAYO's Facilities.**

The City, its officers, agents, employees, or volunteers shall not be liable for any damage to or loss of any Telecommunications Services or any Telecommunications Facility within the Public Ways or any other areas of the City as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work or activity or lack of any activity of any kind by or on behalf of the City; except to the extent that such damage is caused by the City's negligence or willful misconduct. Nothing herein shall be construed to relieve either ZAYO or the City of the provisions of T.C.A. §65-31-101 et seq., as the same be amended (Underground Utility Damage Prevention Act).

#### **Article 19: Facilities Maps.**

After completion of construction of the Telecommunications Facilities, ZAYO shall provide the City with "as built" drawings and an accurate map or maps in an electronic form agreed to by City.



## **Article 20: Insurance Requirements.**

1. ZAYO shall at its sole expense obtain and maintain in full force and effect for the duration of the Agreement and any extension hereof at least the following types and amounts of insurance for claims which may arise from or in connection with this Agreement, including risks associated with the use and occupancy of the City Right-of-Way. All insurance must be underwritten by insurers with an A.M. Best rating of A-VIII or better.

2. Commercial General and Umbrella Liability Insurance; occurrence version commercial general liability insurance, and if necessary umbrella liability insurance, with a limit of not less than \$2,000,000 each occurrence for bodily injury, personal injury, property damage, and products and completed operations. If such insurance contains a general aggregate limit, it shall apply separately to the work/location in this Agreement or be no less than \$3,000,000. Such limits shall be increased after the first renewal/extension terms to not less than \$3,000,000 and \$5,000,000, respectively.

Such insurance shall:

(a.) Contain or be endorsed to contain a provision that includes the City, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of ZAYO including materials, parts, or equipment furnished in connection with such work or operations. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed insureds. Proof of additional insured status up to and including copies of endorsements and/or policy wording will be required.

(b.) For any claims related to this project, ZAYO's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance programs covering the City, its officials, officers, employees, and volunteers shall be in excess of ZAYO's insurance and shall not contribute with it.

(c.) At the sole discretion of the City, dedicated limits of liability for this specific project may be required.

3. Automobile Liability Insurance; including vehicles owned, hired, and non-owned, with a combined single limit of not less than \$3,000,000 each accident. Such insurance shall include coverage for loading and unloading hazards. Insurance shall contain or be endorsed to contain a provision that includes the City, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of Zayo. Such limits shall be increased after the first renewal/extension terms to not less than \$3,000,000 and \$5,000,000, respectively.

4. Worker's Compensation Insurance. Zayo shall maintain workers' compensation insurance with statutory limits as required by the State of Tennessee or other applicable laws and employers' liability insurance with limits of not less than \$500,000 or statutory requirements, whichever is greater. Zayo shall require each of its subcontractors to provide Workers' Compensation for all of the latter's employees to be engaged in such work unless such employees are covered by Zayo's workers' compensation insurance coverage.

5. Environmental Impairment Liability. Zayo shall maintain environmental impairment liability insurance with limits of not less than One Million (\$1,000,000.00) dollars per occurrence. Such limits shall be increased after the first renewal/extension terms to not less than \$1,000,000 dollars respectively.

6. Pollution Liability Insurance. Zayo shall procure pollution liability coverage, ISO CG 0039, or equivalent. If the coverage is written on a claims-made form:

(a.) The "Retro Date" must be shown and must be before the date of the contract or the beginning of contract work.

(b.) Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract work and acceptance by the City.

(c.) If coverage is cancelled or non-renewed and not replaced with another claims made policy form with a "Retro Date" prior to the contract effective date, Zayo must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.



(d.) A copy of the claims reporting requirements must be submitted to the City for review.

7. Excess Liability Insurance. Zayo shall maintain excess liability insurance in addition to the insurance specified above with a limit of not less than \$10,000,000 each occurrence. This coverage shall be on a follow form basis,

8. Other Insurance Requirements. Zayo shall:

(a.) Prior to commencement of services, furnish the City with original certificates and amendatory endorsements effecting coverage required by this section and provide that said insurance shall not be cancelled, allowed to expire, or be materially reduced in coverage except upon 30 days' prior written notice to the City. Proof of policy provisions regarding notice of cancellation will be required.

(b.) Replace certificates, policies, and endorsements for any such insurance expiring prior to completion of services.

(c.) Maintain such insurance from the time services commence until services are completed. Failure to maintain or renew coverage or to provide evidence of renewal may be treated by the City as a material breach of contract.

(d.) If ZAYO cannot procure insurance through an insurer having an A.M. Best rating of A-VIII, or better, ZAYO may, in the alternative, place such insurance with insurer licensed to do business in Tennessee and having A.M. Best Company ratings of no less than A. Modification of this standard may be considered only upon appeal to the City.

(e.) Require all subcontractors to maintain during the term of the Agreement Commercial General Liability insurance, Business Automobile Liability insurance, and Workers' Compensation/ Employer's Liability insurance (unless subcontractor's employees are covered by ZAYO's insurance) in the same manner as specified for ZAYO. ZAYO shall furnish subcontractors' certificates of insurance to the City without expense immediately upon request.

Any deductibles and/or self-insured retentions greater than \$50,000 must be disclosed to and approved by the City of Red Bank prior to the commencement of services. Use of large deductibles and/or self-insured retentions will require proof of financial ability as determined by the City.

The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, and employees for losses arising from work performed by ZAYO for or with regard to the City. Proof of waiver of subrogation up to and including copies of endorsements and/or policy wording will be required.

All general liability policies must be written on an occurrence basis unless the City Attorney determines that a claims made basis is reasonable in the specific circumstance. Use of policies written on a claims made basis must be approved by the City Attorney and retroactive dates and/or continuation dates must be provided to the City prior to commencement of any work performed. Professional Liability and Environmental Liability (Pollution Coverage) are most commonly written on a claims made basis and are generally acceptable in that form.

#### **Article 21. Indemnification of City.**

ZAYO shall defend, indemnify and hold harmless the City, its officers, employees and agents from any and all liabilities which may accrue against the City, its officers, employees and agents or any third party for any and all lawsuits, claims, demands, losses or damages alleged to have arisen from an act or omission of ZAYO in performance of this Agreement or from ZAYO's failure to perform this Agreement using ordinary care and skill, except where such injury, damage, or loss was caused by the negligence of the City, its agents or employees.

ZAYO shall save, indemnify and hold the City harmless from the cost of the defense of any claim, demand, suit or cause of action made or brought against the City alleging liability referenced above, including, but not limited to, costs, fees, attorney fees, and other expenses of any kind whatsoever arising in connection with the defense of the City; and ZAYO shall assume and take over the defense of the City in any such claim, demand, suit, or cause of action upon written notice and demand for same by the City. ZAYO will have the right to defend the City with counsel of its choice that is satisfactory to the City, and the City will provide reasonable cooperation in the defense as ZAYO may request. ZAYO will not consent to the entry of any judgment or enter into any settlement with respect to an indemnified claim without the prior written consent of the City, such consent not to be unreasonably withheld or delayed. The City shall have

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the right to participate in the defense against the indemnified claims with counsel of its choice at its own expense.

#### **Article 21.1 LIMITATION OF LIABILITY.**

EXCEPT FOR ZAYO'S INDEMNIFICATION OBLIGATIONS SET FORTH HEREIN AND EXCEPT FOR CLAIMS ARISING FROM A PARTY'S INTENTIONAL MISCONDUCT AND EXCEPT WITH RESPECT TO ANY AND ALL COSTS ASSOCIATED WITH ZAYO'S DEFAULT OR FAILURE TO ADHERE TO OR COMPLY WITH PERMIT REQUIREMENTS OR OTHER AFFIRMATIVE REQUIREMENTS OF THIS FRANCHISE, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES WHATSOEVER, ARISING OUT OF, OR IN CONNECTION WITH, THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, LOST PROFITS, LOST REVENUE, LOSS OF GOODWILL, LOSS OF ANTICIPATED SAVINGS, LOSS OF DATA, INCURRED OR SUFFERED BY EITHER PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF THE OTHER PARTY OR ANY OTHER PERSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

#### **Article 22: Bonds.**

ZAYO shall obtain and maintain, at its sole cost and expenses, for the benefit of and filed with the City, two (2) corporate surety bonds, each written with a surety company authorized to do business in the State of Tennessee and found acceptable by the City, in an amount to be reasonably determined by the City depending upon the nature of the work to be performed and the permit fee. The first bond will guarantee the timely and safe construction of ZAYO's network (the "Construction Bond"). The second bond will secure ZAYO's performance of its obligations and faithful adherence to all requirements of this Agreement (the "Agreement Bond").

#### **Article 23: Coordination of Construction Activities.**

ZAYO agrees to cooperate with the City and with other telecommunications providers and all construction locations, activities and schedules shall be coordinated, as ordered by the City Engineer, to minimize public inconvenience, disruption or damages..

#### **Article 24: Non-enforcement.**

Neither party shall be excused from complying with any of the terms and conditions of this Franchise by any failure of the other party, upon any one or more occasions, to insist upon such party's performance or to seek such party's compliance with any one or more of such terms or conditions of this Franchise.

#### **Article 25: Controlling Law.**

Notwithstanding any conflicts of laws doctrines to the contrary, this Franchise shall be construed and enforced in accordance with the substantive law of the State of Tennessee and any applicable federal laws.

#### **Article 26: Removal of Franchisee's Facilities.**

Upon termination of this Franchise, ZAYO shall promptly remove all Telecommunications Facilities from the Public Ways.

#### **Article 27: Notices.**

All notices required or permitted to be given under this Franchise shall be in writing, addressed as set forth below, and shall be hand-delivered to the addressee, sent by Federal Express or similar overnight delivery service, or sent by U.S. Mail, certified and return receipt requested.

If to the City:

City of Red Bank  
Attn: City Manager's Office  
3105 Dayton Blvd.  
Red Bank, Tennessee 37415



With a copy to:

Mayor  
3105 Dayton Blvd.,  
Red Bank, TN 37415

(It shall be the obligation of  
ZAYO to determine whoever is in office  
as Mayor at the time of any such notice)

City Attorney  
3105 Dayton Blvd.  
Red Bank, TN 37415

If to ZAYO:

Zayo Group, LLC  
1805 29th Street  
Boulder, CO 80301  
Attn: General Counsel


**Article 28: Nondiscriminatory Access.**

Notwithstanding anything included in this Franchise to the contrary, in no event shall ZAYO be required to pay any fee, charge, cost, expense or compensation, or perform any service, that is (a) in excess of that amount permitted or directed by Law; or (b) not imposed by the City upon and performed by all other telecommunication providers or telecommunication carriers using the Public Rights-of-Way.

**Article 29: Default and Termination.**

In the event either Party shall fail to observe or perform any of the terms and provisions of this Franchise and such failure shall continue for a period of thirty (30) days after receipt of written notice from the non-defaulting party ("Default"), then the non-defaulting party may terminate this Franchise, provided however, that where such Default cannot reasonably be cured within such period, and the defaulting party has proceeded promptly to cure the same and is prosecuting such cure with diligence, the time for curing such Default shall be extended for an amount of time, not to exceed sixty (60) days, as may be necessary under the circumstances to complete such cure. Notwithstanding the foregoing, the cure period for failure to pay money or failure to maintain required insurance coverage shall be ten (10) days after written notice. Upon the occurrence of a Default, as defined above, by either Party, the non-defaulting Party may exercise any and all remedies available at law or equity, including but not limited to termination of this Franchise.

BE IT FURTHER ORDAINED that this Ordinance shall take effect immediately after its passage.

  
\_\_\_\_\_  
City Recorder

  
\_\_\_\_\_  
Mayor

February 19, 2019  
Passed on First Reading

March 5, 2019  
Passed on Second and Final Reading

Approved as to form:

  
\_\_\_\_\_  
City Attorney



Accepted and Agreed:

ZAYO GROUP, LLC

[Signature] 3/20/19  
Title: General Counsel (date)

STATE OF Colorado )

COUNTY OF Boulder )

Before me Heather Ault, a Notary Public, duly appointed, commissioned and qualifies in and for the State and County aforesaid, personally appeared Mike Mooney, with whom I am personally acquainted, and who upon oath acknowledged himself to be the General Counsel of ZAYO Group, LLC the within named bargainor, and that he as such General Counsel being authorized so to do, executed the foregoing instrument by his own free will and for the terms and conditions contained therein.

IN TESTIMONY WHEREOF, I have hereunto set my hand and notary seal in office in said State and County on this 20<sup>th</sup> day of March, 2019.

Heather Ault

Notary Public

My Commission Expires: 12/11/2022

ATTEST:

BY: [Signature] 3/20/19  
Title: Corporate Secretary (date)  
ZAYO Group, LLC

STATE OF Colorado )

COUNTY OF Boulder )

Before me Heather Ault, a Notary Public, duly appointed, commissioned and qualifies in and for the State and County aforesaid, personally appeared Mike Mooney, with whom I am personally acquainted, and who upon oath acknowledged himself to be the Corporate Secretary of ZAYO Group, LLC the within named bargainor, and that he as such Corporate Secretary being authorized so to do, executed the foregoing instrument by his own free will and for the terms and conditions contained therein.

IN TESTIMONY WHEREOF, I have hereunto set my hand and notary seal in office in said State and County on this 20<sup>th</sup> day of March, 2019.

Heather Ault

Notary Public

My Commission Expires: 12/11/2022





## **EXHIBIT A**

### **MAP OF ZAYO'S TELECOMMUNICATIONS FACILITIES IN THE CITY OF RED BANK**

(This Exhibit A may be amended and updated from time to time in order to show an accurate depiction of the ZAYO's facilities. Upon such amended EXHIBIT A, any prior EXHIBIT A, shall be replaced with the amended or updated document).





## EXHIBIT B

### SCHEDULE OF COMPENSATION AND CHARGES

This EXHIBIT B is an integral part of the Franchise Agreement and contains the fees and charges governing the Attachments of Zayo Group, LLC in the corporate boundaries of the City of Red Bank.

ZAYO acknowledges that the City is permitted to collect a fee that is reasonably related to the City's costs associated with owning, managing and maintaining public rights-of-way and that the amounts listed below are fair, reasonable and reasonably related to the pro-rata share ZAYO's facilities to be located underground in the public rights-of-way contribute to the City's overall costs associated with owning, managing and maintaining the public rights-of-way. ZAYO and the City agree that the compensation for this right-of-way use shall be as follows:

Years 1 through 5	\$5,000.00
Years 6 through 10	\$7,500.00
Years 11 through 15	\$10,000.00
Years 16 through 20	\$15,000.00

(a) Payment Frequency.

The first payment will be due as a lump sum upon the issuance of a permit by the City for the installation of facilities, and the remaining payments shall be made at the commencement of each five (5) Extension Term. The parties agree that the amounts listed above are a reasonable estimate of these costs given that the actual costs are indeterminable or difficult to measure at the time of the parties' entry into this Franchise Agreement, and that it is the parties' mutual intent that these amounts serve as a reasonable measurements of these costs until this Franchise Agreement expires by its terms.

(b) Payment Date.

All bills for such other charges shall be payable upon presentment to Franchisee, and failure to pay within thirty (30) days after receipt of the invoice by Franchisee shall constitute a default of this Franchise, which, subject to notice and cure provisions set out in the Ordinance to which this Exhibit B is appended, shall entitle City to revoke the Franchise and recover any unpaid or delinquent compensation and charges, together with its attorney and costs incurred in enforcing any term or provision hereof and/or with respect to recovery and collecting any unpaid fees, compensation, charges and costs incurred..







## **CHAPTER 8**

### **ADVERTISING SIGNS, ADMINISTRATION, AND**

#### **ENFORCEMENT SECTION**

- 9-801.** Exemptions from and applicability of Chapter.
- 9-802.** Definitions.
- 9-803.** License required for erecting Off-premise signs or On-premise signs.
- 9-804.** Reserved.
- 9-805.** Disposal of glue, paste, waste material.
- 9-806.** Permit required to erect, maintain signs.
- 9-807.** Application for sign permit; notification to building inspector; expiration and renewal of permits.
- 9-808.** Schedule of Permit Fee's; No permits are to be issued in violation of any ordinances; approval of City Manager; yearly maintenance and safety inspection fee; inventory of certain existing signs.
- 9-809.** Power to revoke permit; remedies for violation.
- 9-810.** Owner's name required on off-premise signs.
- 9-811.** Non-conforming.
- 9-812.** Violation declared misdemeanor; penalty.
- 9-813.** Violations declared nuisances; pre-existing violations.
- 9-814.** Notice requiring abatement of violation; abatement by City lien for costs.
- 9-815.** Appeals.
- 9-816.** Obscene displays on signs.
- 9-817.** Signs over streets, sidewalks; where other advertising prohibited.
- 9-818.** Change of sign classification - removal.
- 9-819.** Signs distracting to motor vehicle operators prohibited.
- 9-820.** General off-premise sign regulations.
- 9-821.** Billboards and Digital Billboards.
- 9-822.** Scenic Areas and Scenic Corridors.
- 9-823.** Scenic Corridor areas.
- 9-824.** Scenic Corridors established.
- 9-825.** Off-premise signs along Scenic Corridors or within Scenic areas prohibited.
- 9-826.** Prohibited on premise signs and devices.
- 9-827.** Authorized use of temporary signs, banners and special events.
- 9-828.** Removal of temporary signs.
- 9-829.** Balloon signs.
- 9-830.** Banners.
- 9-831.** Special events.
- 9-832.** General regulation of permanent Monument on premise signs.
- 9-833.** Number and size of permitted Monument on premise signs
- 9-834.** Maximum size limitations for Monument signs
- 9-835.** Set-back requirements for Monument signs.
- 9-836.** General regulation of permitted, On-premise pole signs.
- 9-837.** Number and size of permitted On-premise pole signs.

- 9-838. Maximum size limitations for On-premise pole signs.
- 9-839. Set-back requirements for On-premise pole signs.
- 9-840. Minimum and Maximum height limitations for On-premise pole signs.
- 9-841. Traffic directional signs.
- 9-842. Directional signs on Hospital premises
- 9-843. Maintenance of On-premise signs
- 9-844. Flags
- 9-845. Compliance and corrective provisions.
- 9-846. Various building and safety codes applicable.
- 9-847. Political signs regulated.
- 9-848. Set-back variances and procedures.
- 9-849. Premises Identification
- 9-850. Sign Illumination

**9-801. Exemptions from and applicability of chapter.**

- (1) Nothing in this chapter shall apply to any notice required by this code or other ordinances of the city or legal notices of public officers and attorneys, posted in the manner and places provided by law, or to the right of any newspaper to distribute its paper throughout the city.
- (2) Nothing contained herein is intended to conflict with the provisions of the Red Bank Zoning Ordinance as now enacted or hereafter amended except that the provisions of 9-822 through 9-825 are intended to provide that, notwithstanding provision in the zoning ordinance that would otherwise permit the erection and maintenance of on premise and/or off-premise signs in a zone or zones, the provisions of 9-822 through 9-825 shall override the permissive provisions of the zoning ordinance currently located in zones where such uses are currently permitted by the zoning ordinance.

**9-802. Definitions.** For the purposes of this chapter, the following definitions shall apply:

Words and phrases used in this article shall have the meanings set forth in this section. Words and phrases not defined in this section, but defined in the city zoning ordinance, shall be given the meanings set forth in such ordinance. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise. Section headings or captions are for reference purposes only and shall not be used in the interpretation of this article.

- (1) **“Abandoned sign”** Any sign that contains or exhibits broken panels, visible rust, visible rot, damaged support structures, or missing letters or which is otherwise dilapidated, unsightly, or unkempt, and for which no person accepts maintenance responsibility.

(2) **"Animated illumination or effects"** Illumination or effects with action, motion, moving characters or flashing lights. This may require electrical energy, but shall also include wind-actuated devices. This definition includes light emitting diode (LED) and/or electronic variable message center (EVMC) signs and digital signs and digital message centers. Specifically included is any motion picture or video mechanism used in conjunction with any sign structure in such a manner as to permit or allow the images to be visible from any public right-of-way.

(3) **"Attached sign"** Attached sign shall mean a non-digital on premise sign painted onto or attached to a building, canopy, awning, marquee or mechanical equipment located outside a building, which does not project more than eighteen (18) inches from such building, canopy, awning, marquee or mechanical equipment. Any such sign which projects more than eighteen (18) inches from a building, canopy, awning, marquee or mechanical equipment shall be considered a "projecting sign." For the purposes of this definition only, "canopy" shall mean a canopy which is permanently attached to a building or which, if detached from a building, has more than two hundred (200) square feet of roof area.

(4) **"Auxiliary Signs"** Are signs that operate by incandescent light bulbs, Neon tube lights, or digital LED technology such as open signs, lottery signs or similar that are attached to the outside or inside of the window facade or within 5 feet of the inside or outside of the window.

(5) **"Awning"** Awning shall mean a roof-like cover providing protection from the weather placed over or extending from above any window door or other entrance to a building but excluding any column, pole, or other supporting structure to which the awning is attached.

(5)A **"Awning signs"** Awning sign shall mean any sign that is a part of or attached to an awning, canopy, or other fabric, plastic or structural protective cover over a door, entrance, window, or outdoor service area.

(6) **"Balloon sign"** Balloon sign shall mean any sign painted or printed onto or otherwise attached to or suspended from a balloon, or other inflatable device, whether such balloon or device is anchored or affixed to a building or any other portion of the premises or tethered to and floating above any portion of the premises. Section 9-829

(7) **"Banner"** Banner shall mean an on premise or off-premise sign which is made of fabric, paper, plastic, vinyl or any material and which has no enclosing framework or internal supporting structure but not including balloon signs. Section 9-830

(8) **"Billboards"** Are considered off-premise signs, Section 9-822 through 9-825 also Section 14-403 of the Red Bank Zoning Ordinance limits the number of billboards permitted within the City. Digital Billboards are prohibited in the City of Red Bank, section 9-821

(9) **"Building"** Building shall mean any structure that encloses a place for sheltering any occupancy that:

(a) Contains not less than three hundred (300) square feet of enclosed space at the ground level

Or

(b) Is routinely used for human occupancy in the ordinary course of business.

(10) **"Building identification sign"** Building identification sign shall mean an on- premise sign which is limited to the identification of the name of the building and/or the address of the building upon which such sign is located.

(11) **"Canopy"** Canopy shall mean a marquee or permanent roof-like structure providing protection against the weather, whether attached to or detached from a building, but excluding any column, pole or other supporting structure to which the canopy may be attached.

(12) **"Changeable copy sign"** Any sign that incorporates changing lights, lettering, or images to form a sign message or messages, whether such changes are accomplished electronically or manually. Digital signs are included in the description of changeable copy sign.

(13) **"Construction sign"** Construction sign shall mean any temporary on premise sign located upon a site where construction or landscaping is in progress and relating specifically to the project which is under construction, provided that no such sign shall exceed a total of thirty-two (32) square feet in sign area.

(14) **"Detached sign"** Detached sign shall mean:

(a) Any freestanding self-supported unattached sign that has a permitted sign area of 32 square feet or less. See portable signs, temporary signs. Any detached signs which utilize digital technology is prohibited in the City of Red Bank.



- (b) Any sign attached to a structure which is not a building is considered a snipe sign.

(15) **"Digital Billboard"** A Digital Billboard is an **"off-premise" billboard sign** that is digital in nature and uses LCD, LED, or similar electronic technology for providing changeable content to the billboard with a single message or any number of messages in sequence. Digital billboards are not permitted within the City of Red Bank

(16) **"Digital Message Center"** Any on premise electronic sign that conveys information using electronic technology. Also known as a digital changeable copy sign, which may be no larger than 16 square feet in sign area.

(17) **"Digital Signs"** Crystal Display (LCD) or Light Emitting Diode (LED) or any light emitting technology for graphically moving changeable context or display. Digital Signs are synonymous with animated illumination or effects, changeable copy signs, electronic signs, digital billboard, digital message center.

(18) **"Electronic sign"** A sign whose message may be changed at intervals by electronic process or by remote control, including the device known as a commercial electronic variable message sign. Digital signs, changeable copy signs and animated illumination signs are included within this definition of electronic signs.

(19) **"Electronic sign, stationary"** A sign, kept constant in intensity when in use, which does not exhibit sudden or marked changes in lighting effects, and which does not exhibit any other changes of any nature within any continuous one-minute time interval.

(20) **"Erect"** Erect means to build, construct, attach, hang, place, suspend, or affix, and shall also include the painting of signs on building surfaces.

(21) **"Facade"** Facade shall mean the total internal, external surface, vertical side of a building, window, canopy, awning, or mechanical equipment used to dispense a product outside or inside of a building. If a building, canopy, awning, or mechanical equipment has a non-rectangular shape, then all walls of surfaces facing in the same direction, or within twenty-five (25) degrees of the same direction, shall be considered as part of a single facade. Additionally, any portion of the surface face of a mansard, parapet, canopy, window, marque or awning which is oriented in the same direction (or within twenty-five (25) degrees of the same direction) as the wall to which, or over which, such mansard, parapet, canopy, marquee, or awning is mounted shall be deemed a part of the same facade as such wall.

(22) **"Facing and surface"** Facing and surface mean the surface of the sign upon, against, or through which the message is displayed or illustrated on the sign.

(23) **"Flashing"** Includes illumination which is not kept constant in intensity at all times when in use and which exhibits sudden or marked changes in lighting effects, content or display.

(24) **"Foot-candle"** A quantitative unit measuring the amount of light cast onto a given point, measured as one (1) lumen per square foot.

(25) **"Freestanding sign"** Freestanding sign shall mean a single faced or multi-faced sign which is constructed independent of any building and supported by any means. Freestanding signage may not be digital in nature. No on premise freestanding sign shall have a sign area greater than one hundred seventy five (175) square feet and shall not be digital in nature and no off-premise sign shall have a sign area greater than two hundred eighty eight (288) square feet and shall not be digital in nature.

(26) **"Gross surface area of sign"** Gross surface area of sign means the entire area defined by the limits of the perimeter of a sign. However, such perimeter shall not include any structural elements lying outside or inside of the limits of such sign and not forming an integral part of the display.

(a) For computing the area of any wall sign which consists of letters, trademarks or symbols mounted on a wall, the gross surface area shall be the area within a single continuous perimeter formed by the parallel lines at the top, bottom and sides of such letters, trademarks or symbols.

(b) For computing the area of any multi-sided sign, the gross surface area shall refer to all sides of such sign.

(27) **"Height"** Height shall mean the total measurement of the vertical side of the rectangle which is used to calculate "sign area" as specified in Section 9-802.

(28) **"Illuminated sign, external"** A sign illuminated by an external light source. Such source cannot be a device that changes color, flashes or alternates in content or intensity.

(29) **"Incidental sign"** Incidental sign shall mean an on premise sign, emblem or decal mounted flush with the inside or outside of the building or window facade to which it is attached and not exceeding two (2) square feet in sign area informing the public of facilities or services available on the premises (e.g., a credit card sign, ice machine sign, vending machine sign or a sign indicating hours of business) or an on- premise sign which is affixed

to mechanical equipment used to dispense a product and which is less than two (2) square feet in sign area. These signs are not calculated in the total window facade calculation.

(30) **"Inflatable or air-supported signs"** Inflatable or air supported signs means structures which are used for advertising promotional purposes which are supported by air. This shall include but shall not be limited to balloons or dirigibles and is synonymous with "balloon signs." Section 9-827 and 9-839.

(31) **"Landmark sign"** Landmark sign shall mean any on premise sign which identifies and is attached to any building which is included on the National Register of Historic Places, is listed as a Certified Historic Structure, is listed as a National Monument or is listed under any similar state or national historical or cultural designation.

(32) **"Liquor Store Signs"** See Title 8 Section 8-128 through 8-129 of the Municipal Code for liquor store signs regulations.

(33) **"Lumen"** A quantitative unit measuring the amount of light emitted by a light source.

(34) **"Maintenance"** Maintenance means the replacing or repairing of a part of a sign made unusable or unsightly by ordinary wear and tear damage or the reprinting or repainting of existing copy without changing the wording, composition or color of the sign as it was approved.

(35) **"Mansard"** Mansard shall mean the lower portion of a roof with two pitches, including a flat-top roof with a mansard portion.

(36) **"Mansard sign"** Mansard sign shall mean any sign attached to the mansard portion of a roof.

(37) **"Marquee"** Marquee shall mean a permanent roof-like structure projecting from and beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against the weather.

(38) **"Message center"** Message center shall mean an on premise sign that changes messages automatically on a lamp bank or through digital technology or a mechanical means also known as a commercial electronic variable message sign and which shall have a sign area of no greater than 16 square feet.

(39) **"Mobile Digital Billboard"** Mobile digital billboard shall mean an off-premise billboard sign mounted upon a movable device such as truck, trailer, or similar device that is digital in nature and uses LCD, LED, or similar electronic technology for providing

changeable content to the billboard with a single message or any number of messages in sequence. These signs are not permitted within the City of Red Bank.

(40) **"Monument Sign that has no more than two (2) Occupants"** An on premise sign that is not Digital in nature that is ground mounted with no larger than 32 square feet in sign area and 6 feet in height and as to which there is either no space or no more than 24" inches (2 feet) between the ground and the bottom of the sign structure. Section 9-832 through 9-835.

(41) **"Monument Sign that has more than two (2) Occupants"** An on premise sign that is not Digital in nature, ground mounted with no larger than 100 square feet in sign area and no greater than 8 feet in height and as to which there is no more than 24" inches (2 feet) of space between the ground and the bottom of the sign structure. Section 9-832 through 9-835.

(42) **"Obscene"** Material is obscene if to the average person, applying contemporary community standards, taken as a whole, it predominantly appeals to the prurient interest, that is, a shameful or morbid interest in nudity, sex or excretion; the material taken as a whole lacks serious literary, artistic, political or scientific value; and the material depicts or describes, in a patently offensive way, sexual conduct specifically defined as:

- (1) Acts of sexual intercourse, heterosexual or homosexual, normal or perverted, actual or simulated;
- (2) Acts of masturbation;
- (3) Acts involving excretory functions or lewd exhibition of the genitals;
- (4) Acts of bestiality or the fondling of sex organs of animals; or
- (5) Sexual acts of flagellation, torture, or other violence indicating a sadomasochistic sexual relationship.

(43) **"Occupant"** Occupant shall mean each separate person which owns or leases and occupies a separate portion of a premises, whether it be individuals, businesses or services.

(44) **"Off-premise sign"** Off-premise sign shall mean a freestanding sign not in excess of 288 square feet of sign area that is not digital in nature or a portion thereof which directs attention to a business, profession, commodity or entertainment which is not primarily conducted, sold or offered upon the same premises on which the sign is located and shall include any sign which is not an "on premise" sign. Digital Signs are prohibited. Sections 9-820 through 9-825.

(45) **"On-premise sign"** On-premise sign shall mean any sign that is not in excess of 32 square feet of sign area ~~or~~ and that is not digital in nature whose content relates to the premises on which it is located, referring exclusively to the name, location, products, persons, accommodations, services, entertainment or activities conducted on or offered from or on those premises, or the sale, lease, or construction of those premises. Section 9-836 through 9-940. Except for Reader Boards, Message Centers and Monument Signs.

(46) **"Owner."** Owner means any person or persons having legal title to any sign, property, building, structure or premises, with or without accompanying actual possession thereof, and shall include such person's duly authorized agent or attorney, a purchaser, devise, lessee, executor, trust officer, administrators or fiduciary and any person having a vested or contingent interest or control of or in the sign, property, building structure or premises in question. The term "person" shall include any legal entity.

(47) **"Person"** Person shall mean individual, company, corporation, association, Limited Liability Company, partnership, joint venture, business, proprietorship, or any other legal entity.

(48) **"Pole Signs"** Are Freestanding On Premise signs or Off-Premise signs. See definitions for freestanding signs, Off-Premise signs Section 9-820 through 9-825 and On-Premise signs Section 9-832 through 9-840. Digital signs that are pole mounted are prohibited. Except See Reader Boards Message Centers.

(49) **"Portable sign"** Portable sign shall mean any on premise sign which is not affixed to real property in accordance with the city's then applicable building codes which is intended to be or can be removed at the pleasure of the owner, including, without limitation, single or multi-faced sandwich boards, wheel-mounted mobile signs, sidewalk and curb signs, ground signs, wind aided, and balloon signs. Section 9-827 through 9-828. Portable signs that utilize digital technology are not permitted in the City of Red Bank.

(50) **"Premises"** Premises shall mean all contiguous land in the same ownership which is not divided by any public highway, street or alley, or right-of-way and therefore shall be synonymous with the terms tax parcel or lot of record.

(51) **"Projecting sign"** Projecting sign shall mean an on premise sign attached to a building, canopy, awning or marquee and projecting outward therefrom in any direction a distance or more than eighteen (18) inches, provided, however, that no projecting sign shall extend horizontally from the building more than eight (8) feet at the greatest distance. Projecting signs that utilize digital technology are not permitted in the City of Red Bank.

(52) "**Public interest directional markers**" A small, off-premise (no more than two (2) square feet total area) non-illuminated and non-electrified directional placard or sign directing pedestrian and/or vehicular traffic toward public buildings, hospitals, places of worship, public libraries, public museums, public parks, cemeteries, and/or other public facilities.

(53) "**Public right-of-way or right-of-way**" Public right-of-way or right-of-way means all of the land included within an area which is dedicated, reserved by deed or granted by easement for a street, alley, walkway, parkway, or easement, in which the public, public agencies, utilities and service have access.

(54) "**Reader board**" Reader board shall mean any on premise sign that is or is not digital in nature attached to or made a part of the support system of a Freestanding sign which either displays interchangeable messages or advertises some product or service offered separately from the name of the premises where it is located such as "Deli Inside," "Tune-Ups Available", "Year-End Special" Reader board signs are limited to a sign area no larger than 16 square feet.

(55) "**Rigid materials**" Rigid materials means a material or composition of materials which cannot be folded and can support its own weight when rested upon parallel edges of such materials.

(56) "**Roof sign**" shall mean an attached or projecting sign, which does not utilize digital technology and which is not a digital sign.

- (a) Which is placed on top of or over a roof, excluding the mansard portion of a roof, or is attached to any flagpole, antenna, elevator housing facilities, air conditioning towers or coolers, or other mechanical equipment on top of a roof,
- (b) Any portion of which extends above the top of the wall, canopy or awning to which such sign is attached, or
- (c) Any portion of which extends above the top of the mansard.

(57) "**Scenic corridor**" Scenic corridor shall mean those land areas within the city limits which lie within six hundred sixty (660) feet of either side of the outermost edge of any of the roads, rivers, or rights-of-way more specifically designated in 9-822 through 9-825, which are either of uncommon visual importance or scenic attractiveness.

(58) "**Sign**" Sign shall mean any structure or wall or device or other object that is or not digital in nature used for the display of any message or messages; such term shall include without limitation any structure, display, device or inscription which is

located upon, attached to, or painted or represented on any land, on any building or structure, on the outside of a window, or on an awning, canopy, marquee, or similar appendage, and/or which displays or includes in any manner designed or intended or which can be seen from out of doors, any message or messages, numeral, letter work, model, emblem insignia, symbol, device, (including without limitation balloons, blimps, or other similar or dissimilar devices) light projected images, trademark, or other representation or platform or background of any kind used as, or in the nature of, an announcement, advertisement, attention arrester, warning or designation of any person, firm, group, organization, place, community, product, service, location, businesses, profession, enterprise or industry. Provided, however, that the following shall be excluded from this definition:

- (a) Address/name signs A sign, not exceeding 1 square foot in area, identifying the name or house number of the occupant or the presence of a permitted home occupation.
- (b) Any message or messages on the clothing of any person or on motor vehicles unless otherwise prohibited in accordance with 9-826 hereof.
- (c) Incidental signs Are signs placed in store windows regarding hours of operation, accepted charge cards, warnings or similar information that are not digital in nature. These signs are not included in the 25% calculation of the total window facade.
- (d) Business nameplates Non-illuminated nameplates not exceeding 1 square foot which denote the business name of an occupation legally conducted on the premises. Only 1 nameplate per proprietor shall be permitted.
- (e) Construction signs one sign per street frontage not exceeding 32 square feet in area. Such signs may indicate the architect, engineer contractor and can be installed upon receipt of a building permit and removed upon the issuance of a certificate of completion.
- (f) Flags and pennants Flags and pennants at educational, governmental, or charitable institutions which are not displayed for commercial purposes and are not greater than 50 square feet in size. A maximum of 4 flags or pennants per site may be displayed. The pole height shall be limited to the zoning district height limitation.
- (g) Garage sale signs advertising garage sales, yard sales, or house

sales, on the day(s) that the sale is actually taking place, which do not exceed 4 square feet. No more than 2 signs per sale shall be permitted, with 1 sign per street frontage on the premises.

- (h) Government signs Traffic signs, regulatory signs, municipal sign, legal notices, railroad crossing signs, danger signs, and such temporary emergency or noncommercial signs as may be approved by the City manager or his/her designee, governmental banners whether decorative or informational in nature.
- (i) Gravestones
- (j) Historical site plaques
- (k) Inside and outside faces of scoreboard sponsor's signs, fences, or walls at athletic fields
- (l) Interior signs which are located on the interior of premises and which are primarily oriented to persons within the premises.
- (m) Monuments/ Plaques, tablets, cornerstones, or lettering inlaid into the architectural materials of a building or structure not exceeding four (4) square feet, denoting the name of that structure and date of erection.

Promotions/special displays a non-animated display or promotion, including the use of bunting, flags or pennants, which shall be permitted for three (3) periods in each calendar year for a maximum of ninety (90) days. A separate permit for such display or promotion shall be required for each instance of its use but no more than (2) two displays at any one time will be permitted. The display of American flags shall be allowed on a permanent or temporary basis without a permit, provided that each flag does not exceed 24 square feet. The pole height shall be limited to the zoning district.

- (n) "Real estate signs" Signs pertaining to the sale, rental, management or lease of real property, referred to in this section as "real estate signs," subject to the following conditions:
  - (1) Real estate signs shall be non-illuminated, and no more than 1 sign per street frontage shall be posted on any property.
  - (2) No real estate sign pertaining to residential property may contain more than 4 square feet, excluding the post. When



computing the 4-square-foot area, any marking or symbol which identifies a real estate licensee or group of real estate licensees shall be included.

(3) A placard stating "Open House" may be temporarily erected on or above a residential sign on the subject property and 1 off-premise directional sign may be permitted on private property.

(o) Signs or flags Signs or flags erected, provided, owned, authorized or required by duly constituted governmental body, including, but not limited to, traffic or similar regulatory devices, legal notices, or warnings at railroad crossings.

(p) The display of street numbers.

#### **(59) "Sign Area"**

Sign area shall mean for all signs except on premise attached signs (as defined in section 9-802, the area within the rectangle (or any other geometric configuration) which is defined by the larger of (4) lines which include the outer extremities of all letters, figures, characters, messages, graphics or delineations on the sign structure, or (5) lines which include the outer extremities of the framework or background of the sign structure or device, without limitation. The support for the sign background, if it be columns, a pylon, or a building or part thereof, shall not be included in the sign area unless it forms a part of the message of the sign to which it is attached. Other devices such as balloons, inflatables, etc. shall be included in the sign area, whether or not forming a part of the message of the sign. On any sign structure which has multiple sign faces, any sign faces which are separated by an angle of less than sixty (60) degrees as measured from the rear of each sign face, shall be counted separately in computing sign area; if the angle of separation of the backs of sign faces exceeds sixty (60) degrees, then all such faces shall be included together in the computations of any sign area. The sign area of a sign made of individually cut out letters is the area of the rectangle necessary to enclose all such letters. For off- premise signs shall not have a sign area larger than two hundred eighty eight (288) square feet and on premise pole signs no larger than one hundred seventy-five (175) square feet. See Monument Signs for sign area-limitations.

(a) For attached on premise signs, the foregoing definition of subparagraph (a) shall also apply, except that if any word, symbol, or group of words or symbols which would otherwise be included within the rectangle defined above are separated from another word, symbol or group of words or symbols by a distance of greater than three (3) times the height of the largest letter or symbol within such word, symbol, or group of words or symbols, then separate rectangles

may be used to calculate sign area, and the total of all such rectangles shall then be considered as the "sign area."

(b) The foregoing definition is applicable to all signs and when used in the context of a maximum or "not to exceed" sign area has reference to the sign area facing in any one direction. If a particular sign or sign structure faces in more than one (1) direction the maximum sign area or the "not to exceed" area refers to each side of a sign and not to the total sign area of the combined faces of the sign.

(60) **"Snipe sign"** Snipe sign shall mean any on premise sign that is electrically illuminated, including neon tube lights or any style of LED digital lights or sign for which a permit has not been issued which is attached in any way to a building facade, window façade, inside or outside of the window or within five (5) feet of the inside or outside of the window or building. Including utility poles, trees, rocks, fences or post of any kind or similar in character. Except window signs will be allowed for no more than 25% percent of the total window facade area. Auxiliary signs shall be included in the 25% calculation of the total window facade area. Incidental signs are not included in the 25% calculation of the total window facade area. See definitions for Window signs, Auxiliary signs, and Incidental signs. Section 9-827 through 9-828.

(61) **"Special event"** Special event shall mean a short-term event of unique significance not in excess of ten (10) days; such term shall include only sales events, business grand openings, health-related promotions or health-related service programs (i.e., flu shot clinic, blood donation drives, chest x-ray clinic, etc.), going-out-of-business sales, promotions sponsored by a governmental entity, fairs, school fairs, school bazaars, charity runs, festivals, religious celebrations, and charity fundraisers, and shall not include other sales or promotions in the ordinary course of business. Section 9-827 through 9-830

(62) **"Sport facilities, Field or team sponsorship signs, Scoreboards, Message boards and Banners"** Are on premise banners or structures with a sign face attached upon them which list names of sponsors or advertisements. Banners, message boards, and other similar signs are on premise only.

(63) **"Stationary vehicle signs"** Motorized vehicles or equipment of any type including trucks, cars, tractors, trailers, motor homes, or any other similar vehicle or equipment that has been placed on or off premise for the purpose of advertising a business, product, service, event, or individual.

(64) **"Temporary sign"** Temporary sign shall mean any on premise sign permitted specifically and exclusively for a temporary use as allowed under the provisions of Section 9-827 through 9-830.

(65) **"Visibility Triangle"** Shall mean all signs located near the corners of an intersection, and shall be located outside of the sight distance triangle. Such triangle shall be measured at a distance of 25 feet running parallel along each leg of the road right-of-way connecting them to form a triangular area. This area shall be free of any permanent or temporary signs that may inhibit a clear sight line for motorists.

(66) **"Wall graphics or Wall murals"** Wall graphics or wall murals shall mean a painted scene, figure, or decorative design so as to enhance the building architecture, and which does not include written trade names, advertising or commercial messages. Wall graphics or Wall murals are permitted to be 20% of the facade that they are painted upon. Except if a monument or pole sign is not used then the graphics or mural may be increased to 30%.

(67) **"Width"** Width shall mean the total measurement of the horizontal side of the rectangle or other geometric figure which is used to calculate "sign area" as specified in Section 9-802.

(68) **"Window Signs"** Any sign placed on either the internal or external surface of a window or within 5 feet of the inside or outside of the building or window façade. Window Signs may not exceed 25% of each window's total facade area. These signs are also known as Snipe signs, Auxiliary signs, and Incidental signs Section 9-802.

**9-803. License required for erecting off-premise signs and on premise signs.** No person shall carry on the business of erecting or posting or maintaining off-premise signs or on premise signs (as defined in 9-802) without having secured a business license from the city to carry on such business. Persons holding a license under the provisions of this section of the Red Bank Municipal Code which formerly regulated this activity shall have a grace period of sixty (60) days after final passage of this chapter to obtain a new license.

**9-804. Reserved.**

**9-805. Disposal of glue, paste, waste material.** No person shall scatter, daub or leave any glue, paste, adhesive material or other like substance for affixing signs upon any street or sidewalk or public right of way or scatter or throw any old signs or waste material resulting from the erection or maintenance of signs or removal from signs on the surface of any public property, street or sidewalk or upon any private property.

**9-806. A. Permit required to erect, maintain sign.** Except as specified in subsection (2) of this section, any person must obtain a sign permit from the building inspector prior to the erection, installation, or material alteration of any sign. As used in the preceding sentence, the term "material alteration" shall mean any change in:

- (1) The height of a sign,
- (2) The sign area of a sign,
- (3) The location of a sign,
- (4) The supporting structure of a sign,
- (5) The number of words in excess of six (6) inches in height for an attached sign,
- (6) Addition of any digital sign or light emitting technology or capability, Such term shall not include routine maintenance and repair or electrical work only for which an electrical permit must be obtained. Such sign permit shall be obtained in addition to any building permit otherwise required by this code.

**B. No sign permit shall be required for any of the following on premise signs:**

- (1) Construction signs, as defined in 9-802.
- (2) Incidental signs, as defined in 9-802.
- (3) Signs advertising the sale or lease of real estate which are located upon the real estate offered for sale or lease, provided that such signs do not exceed four (4) square feet in sign area
- (4) Entrance and exit signs regulated by 9-841.
- (5) Landmark sign, as defined in 9-802.
- (6) Signs for special events as allowed in 9-831.
- (7) Sport facilities, field sponsorship signs, message boards, banners are on premise only. Off premise banners of any type shall be not permitted. Section 9-827 and 9-830.
  - (a) Special Events or Grand opening events not lasting longer than ten (10) days. Section 9-831

**9-807. Application for sign permit; notification to building inspector; expiration and renewal of permits.** Application for the sign permit required by the proceeding section shall be made to the building inspector concurrently with an application for a building permit if required and shall be accompanied by such drawings, plans, specifications, and engineering designs in compliance with the provisions of the then current International Building Code most recently adopted by the City of Red Bank for the proposed sign as may be necessary, in the judgment of the City inspector or City Manager, to fully advise and acquaint the building inspector and the City Manager or his/her designee with the proposed construction thereof. The application shall also include the owner and address of the premises where such sign is to be located, together with the size of the proposed sign, and a description of any other signs located on such premises or for which a permit has been issued and remains outstanding. Any application for a sign permit or temporary sign permit shall be approved or denied by the office of the building inspector within ten (10) business days, excluding holidays

recognized by the City of Red Bank, after the filing of the application for such permit, and in the event the office of the building inspector does not approve or deny an application within said period, the applicant may refer the matter directly to the City Manager who shall require action thereon. Notwithstanding the provisions of the foregoing sentence the office of the building inspector may grant contingent approval subject to on-site inspection in cases where an applicant for a temporary sign permit requires immediate attention on the application.

The owner of any sign for which a new sign permit is required, and which permit has been granted, shall notify or cause to be notified the office of the building inspector of the date the erection or material alteration of the sign will begin not less than forty-eight (48) hours prior to the beginning of such work. Such owner shall also notify or cause to be notified the office of the building inspector of the completion of such work within forty-eight (48) hours after completion of such work. The failure to give or cause to be given either of the notices set forth in this paragraph shall constitute a violation of this chapter and shall subject any sign erected without both of the above notices having been given to abatement as a nuisance.

Any sign for which any permit has been issued but for which no substantial expenditures have been made as of the effective date of this chapter shall only be erected in accordance with the provisions of this chapter except that no additional initial permit charge will be required for any permit which has already been issued and for which a permit fee has been paid.

Any sign permit issued pursuant to this chapter for the erection of a sign shall expire ninety (90) days from the date of its issuance in the event such sign has not been fully erected within said ninety (90) days, provided, that upon good cause shown to the building inspector such permit may be renewed one time for a period not to exceed ninety (90) additional days. If a permit is requested for a location on which a valid permit is already outstanding but has not expired, and upon which no sign has been erected, and if such subsequent permit is requested by a person other than the holder of the outstanding permit, the office of the building inspector shall file, without fee, such application for the subsequent permit. In the even the outstanding permit expires without a sign being erected, as set forth above, the next valid permit application on file with the building inspector shall be processed upon payment of the required fee.

**9-808. No permits to be issued in violation of ordinances; schedule of permit fees; yearly maintenance and safety inspection fee; inventory of certain existing signs.** The building inspector shall not issue any sign permit for any sign which is not in conformance with the city code of Red Bank and applicable state laws, including but not limited to all electrical codes of the City of Red Bank or State of Tennessee; any permit issued which does not so conform will be null and void and any sign constructed pursuant thereto shall be removed in accordance with the

provisions of this chapter. The building inspector shall collect a permit fee with the application for each sign or sign structure. The permit fee shall be as follows:

- (1) For off-premise signs, two hundred (\$200.00) dollars for each such sign.
- (2) For on premise signs other than temporary signs, one hundred fifty (\$150.00) dollars for each Monument sign, Pole sign and each electric or illuminated sign, and a total of fifty (\$50.00) dollars per premises for all other signs. Any on premise sign, other than a detached sign or electric or illuminated sign, which conforms with this chapter and which replaces any other on premise sign for which a permit has been issued hereunder, shall not require the issuance of a new permit nor the payment of the permit fee.
- (3) Every person maintaining an off-premise sign as of the effective date of this chapter shall, within one hundred twenty (120) days of said effective date, furnish to the office of the building inspector an inventory of all such signs; said inventory shall specify the exact location, measurements and size (including sign area as defined in 9-802) of each sign, provided, that such persons who have previously furnished such inventory shall not be required to furnish a new inventory. In lieu of such inventory, persons maintaining such signs may furnish or mail to the office of the building inspector a photograph of each sign for which an inventory is required together with the name of the owner of the premises on which the sign is located, the occupant of such premises if different from the owner, the name of the business located on such premises in the case of an on premise sign, and the full address of such premises. The failure to file the inventory for a sign as specified herein shall create a rebuttal presumption that such sign was erected subsequent to the effective date of this chapter.

**9-809. Power to revoke permit; remedies for violation.**

- (1) If any sign permit is issued based upon any false or untrue information which is material to the application and the granting of a sign permit, the building inspector shall revoke any such permit and order the removal of such sign within thirty (30) days.
- (2) If the building inspector determines that any sign erected pursuant to a permit issued under the provisions of this chapter is in violation of any provision of this chapter by error in the construction of the sign, the building inspector shall
  - (a) Notify the holder of the permit of the nature of the noncompliance and allow the holder a reasonable amount of time, but not less than fifteen (15) days nor in excess of sixty (60) days, to correct the defects giving rise to the non-compliance; or
  - (b) If such non-compliance cannot be corrected, to require the removal of the non-complying sign within thirty (30) days of the expiration of the period for correction specified

above.

(3) If any sign is erected without a sign permit but is otherwise erected in compliance with the provisions of this code, the building inspector may upon proper application for a sign permit and payment of double the normally required permit fee issue a sign permit for such a sign, provided, however, that any such permit so issued shall in no event operate to relieve the person so erecting a sign without a permit from any penalties provided by this chapter until such permit has been issued.

**9-810. Owner's name required on off-premise signs.** No sign permit shall be issued to any applicant to erect an off premise sign unless the applicant agrees to place and maintain on each such sign the name and permit number of the person or entity owning or in possession, charge or control thereof. The building inspector shall verify that the name and permit number of the person or entity owning or in control of such sign is placed upon the same forthwith upon the erection of such sign and kept on the signs at all times while such sign is maintained.

**9-811. Non-conforming.**

(1) Nothing contained in this chapter shall be construed in any way to ratify or approve the erection and/or maintenance of any sign which was erected in violation of any prior ordinance or ordinances of the City of Red Bank, Tennessee, and such signs so erected in violation of any prior ordinance or ordinances shall be subject to removal upon notice from the city. Signs which are now in existence and were constructed in the compliance with the terms of any prior ordinance or ordinances of the City of Red Bank, Tennessee, but which are not in conformance with the provisions of this chapter are hereby designated as legal, non-conforming signs.

(2) For off-premise signs, any person owning, controlling or having a substantial ownership interest in any illegally erected or maintained non-conforming off-premise sign(s) shall remove all such illegally erected and maintained off-premise sign and its supporting structure prior to the issuance of any off-premise sign permit to such person until such person no longer owns, controls or has a substantial ownership interest in any illegally erected or maintained non-conforming off-premise signs. Evidence of the removal of an illegally erected off-premise sign shall be furnished to the satisfaction of the building inspector. As used herein, "substantial" ownership interest shall mean any ownership interest in excess of five (5%) percent of the total ownership interest

(3) For on premise signs, any occupant (as defined in 9-802) who applies for a new sign permit for any on premise signs shall be required to either remove all legal non-conforming signs and the devices designated in Section 9-811 on the area of the property occupied by such occupant, or to bring such non-conforming signs into conformance with the provisions of this chapter, before any new permit may be issued. Any occupant who applies for a new sign permit for any on premise attached sign shall be required to either

remove all legal non-conforming attached signs and the devices designated within this ordinance on the premises occupied by such occupant, or to bring such non-conforming signs into conformance with the provisions of this chapter, before any new sign permit may be issued.

(4) Notwithstanding any other provision of this chapter, any person using a portable sign, balloon sign or banner for which a temporary sign permit must be obtained on the effective date of this chapter must obtain a temporary sign permit as required by Section 9-827 through 9-830.

**9-812. Violation declared misdemeanor; penalty.** Any person who shall violate any provision of this chapter, or any person who shall fail or refuse to comply with any notice to abate or other notice issued by the building inspector within the time allowed by such notice, shall be guilty of a misdemeanor; each day of such violation or failure or refusal to comply shall be deemed a separate offense and punishable accordingly. Each violation of this chapter shall be punishable by a fine of up to fifty (\$50.00) dollars, and each day of continuing violation is deemed a separate and continuing offense, punishable by up to fifty (\$50.00) dollars for each day of violation.

**9-813. Violations declared nuisances; pre-existing violations.** The maintenance of any unused sign and/or its supporting structure or any violation of the provisions of this chapter by any person is declared to be a public nuisance dangerous to the public safety and shall be abated as set forth in this section. Any sign for which the annual safety inspection fee remains unpaid more than one hundred eighty (180) days after the delinquent notice of such fee pursuant to this ordinance is declared to be a public nuisance and shall be abated as set forth in this section. For the purposes of this section, "unused sign" shall include any sign which

(1) Has not displayed a message or messages for ninety (90) days consecutive, or

(2) Is not kept in good structural repair, or

(3) For which the sign face contains a physically and/or visibly deteriorated torn, weathered, chipped, peeling message, or

(4) Any violations of the electrical code and/or any other applicable city adopted code, such that the sign could pose a risk to public health or safety. Except for temporary signs regulated by 9-827 and 9-830 of this chapter, every sign to which the provisions of this chapter shall apply that was legally erected prior to the effective date of this chapter and was in use on said date, but which violates any of the provisions of this chapter, shall not be subject to removal, provided, that the owner of any legal nonconforming off-premise sign shall obtain (without charge) within sixty (60) days of the effective date of this chapter a permit from the building inspector which permit shall be marked on the face thereof: "non-conforming sign permit". In the event that there shall be future non-use of any legal non-conforming on premise or off-premise sign and/or its supporting structure for more than ninety (90) days, said non-conforming sign and its supporting structure shall then be



removed forthwith within the time allowed in this ordinance or the building inspector may cause said removal to be done as provided in this chapter.

**9-814. Notice requiring abatement of violation; abatement by city lien for costs.** Upon ascertaining a violation of the provisions of this chapter, the building inspector shall cause to be served upon either the offender, or his agent, and upon the owner, or his agent, or the occupant(s) of the premises, a written notice to abate such violation(s) which shall

(1) Describe the conditions constituting a nuisance under this chapter, and

(2) State that the nuisance may be abated by the city at the expense of the offender, and/or owner, and/or the occupant of the premises at the expiration of not less than fifteen (15) days nor more than sixty (60) days from the date of such notice if such condition is not corrected by the person in control of given notice to abate the constituting a nuisance be corrected or that the offender, or the owner, or the occupant, or the premises. If, at the expiration of the time the nuisance described in said notice to abate, the condition has not been corrected, then such condition may be abated by the city at the expense of the offender and/or the owner and/or the occupant of the premises under the direction of the building inspector.

(3) Provided further, in the event of an emergency which, in the opinion of the city inspector justifies immediate action to protect the health and safety of persons and/or to protect property, the city may take such steps as are necessary, without notice, to abate the condition or situation. In any such event(s), the city shall have a lien on the sign structure and upon property upon which such sign is located to secure the amount expended for the abatement of such nuisance; the amount expended for the abatement of such nuisance, including attorney fees and costs of enforcement, and shall include all unpaid annual maintenance and safety inspection fee and delinquent charges due for such a sign.

**9-815. Appeals.** An appeal to the City Manager from any adverse decision of the building inspector may be filed in writing with the city recorder within ten (10) days from any such decision; the city manager shall, within fifteen (15) days of the filing of the appeal, set a date upon which a hearing before the Board of Commissioners shall be held; the city manager shall promptly notify the person filing the appeal of the hearing date. The decision of the City Manager upon any such appeal shall be final. The provisions of this section shall not be construed to allow the city manager to grant any variance or special exception to the provisions of this chapter, and the jurisdiction of the city manager upon any such appeal shall extend only to questions of fact and to questions involving the interpretation of the provisions of this chapter.

**9-816. Obscene displays on signs.** No person shall post or paint, or cause to be posted or painted, or otherwise caused to be displayed so that the same can be seen from the streets or other public places of the city, any advertisements or materials containing pictures or illustrations of any obscene character. For the purpose of this section "obscene" shall have the same meaning as provided in Tennessee Code Annotated, 39-17-901, as now enacted or hereafter amended. See Section 9-802 (42).

**9-817. Signs over streets, sidewalks; where other advertising prohibited.**

(1) No sign of any kind shall be permitted to project over or be suspended over or across any street or sidewalk except in accordance with the limitation provided in the definition of a "projecting sign" in 9-802 of this chapter.

(3) No person shall paste, paint, print, rope, bill, nail, pin, or otherwise attach any sign or any advertisement or notice of any kind whatsoever or cause the same to be done, on any curbstone, or in any portion or part of any sidewalk or street, tree, lamppost, telephone or telegraph pole, awning, porch or balcony, or upon any other structure in the limits of any street or public right-of-way in the city, except such as may be required by this code or other city ordinance.

(4) When any sign of the type enumerated in this section is found in any place prohibited by this section, it shall be prima facie evidence that such sign was so placed contrary to the provisions of this section by the person to whom reference is thereby made.

**9-818. Change of sign classification - removal.** If for any reason an off-premise sign becomes an on premise sign, such on premise sign and its supporting structure shall be removed within thirty (30) days of the change of classification unless such sign is in compliance with all of the provisions of this chapter governing on premise signs. If for any reason an on premise sign becomes an off-premise sign, such off-premise sign and its supporting structure shall be removed within thirty (30) days unless such sign is in compliance with all provisions of this chapter governing off-premise signs.

**9-819. Signs distracting to motor vehicle operators prohibited.**

Where there are entrance and exit ramps to any controlled access facility, or a confluence of traffic, or anywhere else where operators of vehicles might be required to make sudden decisions in order to safely operate their vehicles, then no signs shall be permitted or allowed that will be or may reasonably be distracting to drivers and thereby hazardous and dangerous to the traveling public. Additionally, and regardless of location, no off-premise or on premise sign shall have moving parts, picture tubes, lights or illumination, light emitting diode (LED) or electronic sign technology that vary in intensity, flash or change color or which utilize light emitting diode (LED), digital or other electronic sign technology as defined herein, except:-

(1) That on premise Monument signs with Message centers, changeable copy signs or reader boards shall be allowed provided a permit has been obtained pursuant to the provisions of this ordinance, and

(2) For any signage which is permitted by the terms of this Ordinance to utilize digital technology, or which would otherwise be characterized as a Digital

Sign, LED signage or LCD signage may display only through the use of digital display, LED lights, LCD lights or similar technology that vary in illumination or intensity not to exceed (0.3) foot candles over ambient light conditions provided further that each display shall remain constant for a minimum of not less than ten (10) seconds.

(3) Signage which utilizes digital technology or which would otherwise be characterized as a digital sign, LED signage or LCD signage or which uses any similar technology is/are general prohibited in the City of Red Bank and are only permitted in certain limited contexts and sign categories and determination i.e., reader boards, message centers and monument signs all other classifications being hereby expressly prohibited.

(4) No signs that resemble any regulatory or warning traffic control device or sign as found in the latest edition of the Manual of Uniform Traffic Control Devices for Streets and Highways as now existing or hereafter amended shall be permitted. No sign shall emit any sound or sounds, audible to the human ear without amplification or exceeding ten (10) decibels.

**9-820. General off-premise sign regulations.** Unless otherwise provided in this chapter, the following regulations shall govern the construction and maintenance of any off-premise sign within the city. Section 9-823. Any off-premise sign which is (or would be) a digital sign, a changeable copy sign, an electronic sign or which utilizes flashing features is prohibited.

**9-821. Billboards** whether structural or mobile are not allowed within the City of Red Bank unless all requirements of this ordinance are met in relation to number of billboards, distance separating billboards and zoning regulations. Digital billboards are not permitted within the City of Red Bank under any circumstance.

Sections 9-822 through 9-825. Scenic Corridors Established and the Red Bank Zoning Ordinance Section 14-403, addresses the number of permitted billboards allowed within the City of Red Bank. No sign shall exceed thirty-five (35) feet in height or fifty (50) feet in width, more particularly, the highest portion of a sign or sign structure shall not exceed thirty-five (35) feet above ground elevation hereafter set out:

(1) Thirty-five (35') feet above the closest point, measured vertically, on the grade of the slope of the real estate upon which the sign or sign structure is located if the sign or sign structure is located on a higher grade than the finished grade of the public road towards which the sign is principally oriented and which it is principally intended to be viewed is the maximum allowable height;

(2) If the sign or sign structure is located on the same or on a lower grade than either the roadway toward which it is principally oriented or the roadway to which it is (measured horizontally) nearer, whichever roadway is nearer, than thirty-five (35') feet above the closest point on the top of the finished grade of either the roadway toward which it is principally oriented or the roadway to which it is (measured horizontally) nearer, whichever roadway is nearer.

(3) No billboard sign area shall exceed seven hundred fifty (750) square feet and no new billboard sign with a sign area exceeding seven hundred fifty (750) square feet shall be permitted or erected in the City of Red Bank.

(4) Sign structures supporting an off-premise sign of any size shall be spaced not less than seven hundred (700) feet apart regardless of the direction in which any such sign is facing; said spacing shall only apply to signs on the same side of the street, provided, however, that any off-premise sign located within three hundred (300) feet of the center of any intersection of two or more roads shall be spaced not less than three hundred fifty (350) feet in all directions from any other off-premise sign of any size.

(5) The number of billboards whether traditional or digital within the City of Red Bank shall not exceed the number, i.e., seventy-two (72) specified in Section 14-403 of the Red Bank Zoning Ordinance at any time.

(25) No off-premise sign shall be located closer than twenty (20) feet to the closest edge of any public right-of-way, no closer than ten (10) feet to the property line of any adjacent commercially zoned real property and no closer than twenty-five feet to the property line of any adjacent residential owned property.

(7) No sign shall be erected so that the lowest portion of the sign face is less than twelve (12) feet, measured vertically, from the closest point on the grade of the real estate upon which the sign or sign structure is located.

(8) No sign shall be permitted on top of any building or roof-top.

(9) No sign face shall be permitted atop or beneath another sign face, i.e., no "stacked" signs are permitted on any sign structure, building, or rooftop.

(10) No sign shall be located where prohibited or not permitted by the Red Bank Zoning Ordinance, as amended, or as may hereafter be amended.

(11) (RESERVED)

(12) Nothing contained herein shall be construed to prohibit the erection and maintenance of a single "public interest direction marker," as otherwise defined herein by any public buildings, hospitals, places of worship, public libraries, public museums, public parks, cemeteries or other public facilities provided that:

(a) There shall be no more than one (1) public interest directional marker for any one entity. Such public interest directional marker shall be located only on Commercial zoned private property and with written permission from the private property owner and shall under no circumstances be located on the public right-of-way for any street, road or highway.

(b) In the judgment of the city manager, or his/her designee, such public interest directional marker does not impair traffic sight lines or any use of any adjacent sidewalk or right-of-way.

(c) The public interest directional marker shall not exceed two (2) square feet in total area.

(d) The owner shall provide, on forms supplied by the city, contact information for the person responsible for maintenance and a signed agreement that the sign or placard may be removed if required by the owner of the adjoining premises, and further agreeing that the city may require removal if, in its judgment, the public interest requires its removal at any time in the future.

(e) That any public interest directional marker shall be located not more than one-half (1/2) mile (two thousand six hundred forty feet (2,640')) from the nearest corner of the property of the entity to which it is intended to direct attention.

(f) **Visibility Triangle at access points.** No structure, signs, landscaping, fences, terraces, or other natural or artificial features adjacent to any street shall be of a nature impairing visibility from or of approaching vehicular traffic where such visibility is important to safety, nor shall such features in any way create potential hazards to pedestrians. In particular, at vehicular entrances and exits, no off-street parking, landscaping, sign or other material impediment to visibility in this area. Such triangle shall be measured at a distance of 25 feet running parallel along each leg of the road right-of-way connecting them to form a triangular area.

**9-822. Scenic areas and scenic corridors.** This section shall govern the erection of off-premise signs and certain on premise signs in scenic areas scenic corridors.

**9-823. Scenic areas.** There are hereby established the following scenic areas, in which off-premise signs shall be prohibited as set forth herein:

**9-824. Scenic corridors established.**

1. There is hereby reaffirmed and established a scenic corridor, which shall consist of those certain strips of land which are located within six hundred sixty (660) feet on either side of the outermost edge of the right-of-way of U.S. Highway 27 (also known as State Route 29 and sometimes referred to as Corridor J) from the southernmost city limits to the northernmost city limits of the City of Red Bank.

2. There are hereby established as scenic corridors, which shall consist of those certain strips of land which are located within six hundred sixty (660') feet on either side of the outermost edge of the right-of-way lines of:

- (a) Dayton Boulevard, from the southernmost city limits to the northernmost city limits of the City of Red Bank;
- (b) Ashland Terrace, from its intersection with Dayton Boulevard to the Chattanooga city limits;
- (c) Signal Mountain Road, from its intersection with Dayton Boulevard to the Chattanooga city limits;
- (d) Morrison Springs Road from Dayton Boulevard to the Chattanooga city limits.

**9-825. Off-premise signs along Scenic corridors or within Scenic areas prohibited.** No off-premise signs shall be permitted within the scenic corridors or within scenic areas established per the provisions of 9-822 through 9-825. No free-standing or off-premise, no bill-board signs shall be permitted, nor electronic signs or digital signs shall be permitted within any scenic corridor other than on premise reader boards, message boards and monument signs.

**9-826. Prohibited on premise signs and devices.**

- (1) Use of the following on premise signs shall be prohibited:
  - (a) Portable signs, except where specifically permitted for an authorized temporary use in accordance with this chapter.
  - (b) Banners in excess of thirty-two (32) square feet in sign area.
  - (c) Snipe signs. See definition.
  - (d) Roof signs, except balloon signs which may be permitted as temporary signs under 9-827 through 9-830 of this chapter.

(e) Any sign printed on or attached to a vehicle and used as a stationary sign.

(f) Freestanding signs or devices are prohibited with moving parts, wind activated, flags, feather signs or animation or sound-emitting devices or similar except not to exceed 30 days by a temporary sign permit and no more than ninety (90) days running consecutive in any one calendar year.

(g) Grand opening events not lasting more than ten (10) days are not required to be permitted but must inform the public works office of such event.

(h) That permanently attached message centers are allowed if built into a monument sign provided, that a sign permit is obtained pursuant to this chapter, and

(i) Signs displaying messages, through lights or digital technology that vary in illumination or intensity shall be allowed, only in the context of monument signs or reader boards, provided, that each display shall remain constant for a minimum of at least ten (10) seconds and not exceed (0.3) foot candles over ambient light conditions and all other provisions of this Ordinance related to permitting, to location, spacing, chargeable content message intervals, total area and luminosity and met and adhered to.

(j) Neon tube lights, LED, digital or electronic signs or Reader boards shall not be attached to any building or window facade.

(k) Auxiliary Signs, Snipe signs or similar will be included in the 25% calculation of the total building or window facade. See Definitions Auxiliary signs, Snipe signs, Incidental signs.

(l) Liquor Store Sign Requirements Title 8 Section 8-128 through 8-129 of and flashing light prohibitions the Red Bank Municipal code for Liquor Store Sign Requirements.

(m) Lights which outline windows, buildings, doors on any on premise or off-premise structures shall not blink, pulsate, flash or strobe.

(n) Billboards off-premise unless all conditions of this Ordinance are met.

(2) Except as provided in 9-827 through 9-830 the use of streamers,

pennants, pinwheels, flags (other than those permitted by 9-839), tinsel and any other device which hangs freely and is intended to be wind-activated or to circulate, flap, rotate, blow or otherwise be put in motion by the wind shall be prohibited. Except Temporary signs, Special events, Grand openings and are limited and regulated by, Section 9-827.

(3) Any on premise sign with a sign area exceeding (175) square feet.

(4) Any on premise freestanding electronic or digital sign, any sign using flashing lights for reader boards/message centers as may be otherwise permitted as provided herein.

**9-827. Authorized use of temporary signs, banners, Wind activated devices and Special events Grand openings and Sales events.** Banners, portable signs and balloon and inflatable signs shall be allowed on premise for certain temporary uses only. A temporary sign permit and Fee shall be required prior to placement or erection of such sign or banner. Each occupant of a premises shall be entitled to obtain a temporary sign permit. Any such temporary sign permit shall be issued only in accordance with the following:

(1) **Permit / Fee Required.** A permit for each temporary sign, banner, and wind activated devices is required along with a (10) ten dollar fee per sign. (Except Sports Field Sponsorship signs on premise.) Special Events or Grand opening events not lasting more than (10) ten days are not required to permit but must notify the office of the Public Works Department of such event. All other sections of 9-827 shall apply.

(2) **Limit on use of temporary signs, banners, wind activated devices.** No person or occupant shall be eligible for issuance of the following signs for more than a total of 90 days during any calendar year, and no occupant or premises shall be allowed to display signs within any consecutive 30 day period. Each occupant shall be allowed no more than two (2) of the following signs at any one time temporary signs, banners, or wind activated devices of any type.

(3) **"Time limit for display of temporary signs"**. All temporary sign permits shall state an effective date and an expiration date; such permits shall be issued only for a minimum of thirty (30) day increments not running within any consecutive 30 day period. Any temporary sign and its supporting structure (including balloons) permitted under this chapter shall be removed at or before 11:59 P.M. of the expiration date on the temporary sign permit notwithstanding any other provision of this chapter. No occupant may obtain a temporary sign permit until the expiration of thirty (30) days from the end of such occupant's last temporary sign permit period but they may not run consecutive from month to month for a total of ninety days.



(4) **“Size and placement of temporary signs”**. No temporary sign shall exceed three hundred (300) square feet in sign area. No temporary sign shall be placed closer than ten (10) feet to any public right-of-way, and no temporary sign may be placed in any public parking space. No part of any temporary sign may be located within forty (40) feet of two (2) public rights-of-way.

**9-828. “Removal of temporary signs”**. Temporary signs shall be removed no later than 48 hours from expiration of the permit. After 48 hours of expiration of the permit. The Building Official or Codes Enforcement officer will remove such signs and dispose of them.

**9-829. “Balloon signs”**. No balloon or other inflatable device upon which a balloon sign is displayed shall exceed a height of thirty (30) feet above the lowest point of the ground or building over which the balloon is situated. No more than two (2) banner signs will be permitted on any balloon. No part of any balloon sign or balloon shall be located closer than thirty (30) feet from any public right-of-way. Any banner sign affixed to a balloon must be mounted flush to the balloon. A banner sign attached to a balloon may not exceed one hundred twenty (120) square feet in surface area, provided, however, that any banner sign attached to a balloon any part of which is within sixty (60) feet of any public right-of-way may not exceed one hundred (100) square feet in surface area. Section 9-827.

**9-830. “Banners”**. All banners shall not exceed 32 square feet in size. A sign permit and fee shall be required for all banners but shall be subject to the provisions of Section 9-827. Banners shall be allowed by permit meeting the requirements of this ordinance for off-premise and on premise signs. An occupant may display only (2) banners at any one time whether attached or detached. (Except Sport Field Sponsorship banners on premise). Off-premise banners for Sport fields are subject to the provisions of 9-827.

**9-831. “Special events”**. Section 9-827

**9-832. “General regulation of permanent On-Premise Monument signs”**. Other than signs which are prohibited under the provisions of this chapter or which are permitted as temporary signs pursuant to this chapter, the section hereinafter shall regulate the general use of on premise signs

**9-833. “Number and size of permitted Monument On-Premise signs”**.

(1) Each premises shall be allowed no more than two (2) Monument signs for each public street upon which the premises fronts (excluding public and private alleyways), provided that not more than two (2) Monument signs shall be primarily

oriented towards any such public street. Submit drawings, rendition or photograph of the signs showing the design and features for review to the Public Works Department. Monument sign support systems larger than 32 square feet and taller than 6 feet in sign area will require a set of stamped plans from a registered architect.

(2) In addition, each occupant of a premises who leases or owns a building which is freestanding and unattached to any other building on such premises shall also be allowed one (1) attached sign for each public street upon which occupant's building fronts, provided that such sign is located within the area leased to occupant and oriented towards such public street.

(3) In addition to any attached sign permitted above, on any premises Menu Board where goods and/or services are offered from a "drive-thru" window or which may otherwise be purchased by a person without the necessity of exiting his or her motor vehicle, one (1) additional detached sign not in excess of eight (8) feet in height or in excess of thirty-two (32) square feet in sign area shall be permitted.

(4) The number of attached signs for a premises, or for each occupant of a premises, shall not be limited, but the total sign area of attached signs shall not exceed twenty (20%) percent of the area of the facade to which the signs are attached. The number of words in an attached sign (excluding a message center) shall not be limited, but not more than eight (8) words attached to a facade may contain any letters in excess of eight (8) inches in height. If any premises is entitled to use a Monument sign pursuant hereto but does not do so, then the total sign area of attached signs on each facade may be increased but shall in no event exceed thirty (30%) percent of the area of the facade to which the signs are attached.

(5) For the purpose of this section, "word" shall mean any word, number, abbreviation, trademark, symbol or name. The purpose of this section may not be circumvented by combining words which are ordinarily separated to make one word such as "Gas for Less", and in such case, each separate letter shall be counted as a word.

(6) Liquor Store Signs. Title 8 section 8-128 through 8-129 of the Municipal Code for Liquor Sign requirements.

#### **9-834. Maximum size limitations for Monument signs.**

(1) **"On-Premise Monument signs no more than 2 occupants"** Support system can be no greater than 32 square feet and cannot be higher than 6 feet. The support material permitted will be masonry brick or masonry in combination with construction material (EFIS) Exterior Finish Insulation System and match the architecture features of the building that the sign serves. The sign copy face area of

a Monument sign shall not exceed 16 square feet in size per sign face and may not be higher than 4 feet per side. Submit drawings, renderings or photograph showing sign design and placement location and distance of the sign in relation to the right-of-way of any roads, driveways, sidewalks or easements.

(2) **“On-Premise Monument signs which have more than two (2) occupants”.** The Monument sign support system shall be no greater than 100 square feet and may not be higher than 8 feet. The support material permitted will be masonry brick or masonry in combination with construction material (EFIS) Exterior Finish Insulation System and match the architecture features of the building that the sign serves. Submit drawings, rendition or photographs showing sign design and placement location and distances from right-of-ways. A set of stamped plans will be required from a registered architect showing design, wind loads, footing details, electrical and the placement location of the signs in relation to the right-of-way of any roads, driveways, sidewalks or easements when the sign is larger than 32 square feet or more than 6 feet in height.

(3) **Message Centers, Reader Boards.** Changeable copy signs are permitted but must be built within the construction of the sign. Message Centers, Reader Boards and Changeable copy signs cannot be attached to any part of the outside of a monument sign and must meet all other requirements of this Ordinance including, location, set back distances and luminosity limitations.

**9-835 “Set-back requirements for Monument signs”** No monument sign may be closer than ten (10) feet to any public or private street, driveway or right-of-way. Except at corners of intersecting streets no signs shall be placed within the visibility triangle. See definitions Visibility Triangle.

**9-836. “General regulations of permitted permanent On-Premise Freestanding Pole signs”.** Other than signs which are prohibited under the provisions of this chapter or which are permitted as temporary signs pursuant to this chapter, the section hereinafter shall regulate the general use of on premise signs.

**9-837. “Number and size of permitted Freestanding On-Premise Pole signs”.** When Monument signs are not allowed due to site distance requirements and other conditions within this ordinance.

(1) Each premises shall be allowed no more than two (2) Freestanding pole signs. Digital signs and or Electronic signs are not permitted as a freestanding on premises pole sign. For each public street upon which the premises fronts (excluding public and private alleyways), provided that not more than two (2) Freestanding pole signs shall be primarily oriented towards any such public street.

(2) In addition, each occupant of a premises who leases a building which is freestanding and unattached to any other building on such premises

shall also be allowed one (1) Freestanding pole sign for each Public Street upon which occupant's building fronts, provided that such sign is located within the area leased to occupant and oriented towards such public street.

(3) Notwithstanding the provisions of subsections (1) and (2), if a Freestanding pole sign is maintained on premises which fronts upon two (2) or more public streets and any part of such sign is located within fifty (50) feet of the closest edge of the intersecting right-of-way of two (2) or more public streets one (1) freestanding pole sign shall be allowed for such premise

(4) In addition to any freestanding pole sign permitted above, on any premises where goods and/or services are offered from a "drive-thru" window or which may otherwise be purchased by a person without the necessity of exiting his or her motor vehicle, one (1) additional sign not in excess of eight (8) feet in height or in excess of thirty-two (32) square feet in sign area shall be permitted.

(5) The number of attached signs for a premise, or for each occupant of a premise, shall not be limited, but the total sign area of attached signs shall not exceed twenty (20%) percent of the area of the facade to which the signs are attached. The number of words in an attached sign (excluding a message center) shall not be limited, but not more than eight (8) words attached to a facade may contain any letters in excess of eight (8) inches in height. If the premise is entitled to use a freestanding pole sign pursuant hereto but does not do so, then the total sign area of attached signs on each facade may be increased but shall in no event exceed thirty (30%) percent of the area of the facade to which the signs are attached.

(6) For the purpose of this section, "word" shall mean any word, number, abbreviation, trademark, symbol, or name. The purpose of this section may not be circumvented by combining words which are ordinarily separated to make one word such as "gas for less", and in such case, each separate letter shall be counted as a word.

(7) Liquor Store Signs Title 8 section 8-128 through 8-129 of the Red Bank Municipal Code for Liquor Store Requirements.

**9-838. "Maximum size limitations for On-Premise Freestanding Pole signs".** When Monument signs are not allowed due to site distance requirements and other conditions within this Ordinance.

(1) The permitted size of a non-digital detached sign shall be determined in accordance with the distance which such sign is set back from the right-of-way as specified in § 9-834 but the sign area of a detached sign (whether a freestanding sign or projecting sign) shall not exceed one hundred seventy-five (175) square feet in size per sign face. The sign area of a sign shall be calculated in accordance with the provisions of the defined term "sign area" in § 9-802 of this chapter, except that the dimensions of any reader board, message center whether digital or not shall be calculated individually and not as if the reader board, message center whether or not digital were included within the rectangular sign area of any other sign. If, instead of being supported by a simple pole or beam system, a freestanding sign

is supported by or attached to any other type of freestanding opaque structure which serves as a background for the sign and obscures vision through such structure, then the structure shall itself be included in determining the size of the sign.

(2) For premises which have frontage along any single public road or public right-of-way in excess of three hundred fifty (350) linear feet along such road or right-of-way and which have more than two (2) occupants, the sign area of a freestanding sign located along such frontage shall not exceed three hundred (300) square feet. In addition, if any premise which has more than two (2) occupants has less than three hundred fifty (350) linear feet of frontage along a public road or public right-of-way but has a developed store or building frontage of greater than five hundred (500) linear feet, then the sign area of a detached sign shall not exceed three hundred (300) square feet.

**9-839. “Set-back requirements for On-Premise Freestanding Pole signs”.** No pole sign may be closer than ten (10) feet to any street or right-of-way; no pole sign with a sign area larger than forty (40) square feet may be closer than fifteen (15) feet to any street or right-of-way; and no pole sign which is larger than one hundred (100) square feet may be closer than twenty (20) feet to any street or right-of-way. Notwithstanding the foregoing set-back limitations, any projecting sign which is attached to a building whose building line adjoins a public sidewalk or public right-of-way may extend out over the public sidewalk or right-of-way, but no over any public street and not in excess of the distance otherwise permitted hereunder. Notwithstanding the foregoing, any owner from whose property any sign may project over any public right-of-way shall, prior to erecting or installing such sign, obtain a temporary use permit from the city subject to such conditions as may be required by the Board of Commissioners.

**9-840. “Minimum and Maximum Height Limitations For On-Premise Freestanding Pole signs”.** When monument signs are not permitted by this ordinance due to site distance requirements.

All pole signs shall have a minimum clearance between the ground and the lowest portion of such sign of not less than ten (10) feet. A pole sign or its supporting structure whose closest point is located no closer than ten (10) feet from any right-of-way may not exceed twenty (20) feet in height above the adjacent public right-of-way at its closest point. For each additional foot of set-back beyond (10) feet from the right-of-way, a pole sign may extend an additional one (1) foot in height above the level of the adjacent public right-of-way at its closest point, up to a maximum of thirty (30) feet in height. Notwithstanding the foregoing provisions of this section, in the event a pole sign is placed on ground which is higher than the closest point on the adjacent public right-of-way, the maximum height of such sign shall be measured from the lowest point of the ground over which such sign is located, if, and only if, every part of such sign and its supporting structure is located within fifty (50) feet of the closest adjacent public right-of-way.

**9-841. "Traffic directional signs".** The number, height and set-back to on premise entrance, exit or other directional traffic signs at any premises, provided that no such directional sign shall exceed thirty (30) inches in height nor more than six (6.0) square feet in sign area, and further provided that no such signs shall contain any words other than customary motor vehicle or pedestrian traffic directional instructions, and shall not otherwise, in the judgment of the city manager or his/her designee, obstruct traffic sight lines or otherwise impair traffic movement

**9-842. "Directional signs on hospital premises".** On-premise directional signs located on the premises of any hospital, medical center or clinic which offers emergency medical care, provided such signs shall not otherwise obstruct traffic sight lines or otherwise impair traffic movement and shall not exceed fifty (50) feet in height above the nearest roadway.

**9-843. "Maintenance of on premise signs".** All on premise signs shall be properly maintained. Exposed surfaces shall be clean and painted if paint is required. Defective, damaged, broken, or deteriorated parts shall be replaced. The building inspector shall order the removal of any on premise sign which is defective, damaged, or substantially deteriorated pursuant to this chapter.

**9-844. "Flags".** In addition to the display of the flag of the United States, the state of Tennessee, the County of Hamilton, the City of Red Bank, each premise may display one (1) additional flag provided that such additional flag in no case shall exceed the size of the flag of the United States displayed on the same premises. Such additional flag may be displayed only on a flagpole and only when the flag of the United States, a state within the United States, the County of Hamilton, or the City of Red Bank is being displayed on a flagpole. At no time may such additional flag be secured by any means on more than one (1) side of the flag. The foregoing limitation on the display of flags shall not apply to stadium or athletic fields in which sporting events are routinely held.

**9-845. "Compliance and corrective provisions".**

(1) Notwithstanding any other provisions of this chapter, the following regulations shall govern the alteration and maintenance of any existing on premises or existing legal non-conforming off premises signs. Nothing contained in this chapter shall be construed in any way to ratify or approve the erection and/or maintenance of any sign which was erected in violation of any prior ordinance or ordinances of the City of Red Bank, Tennessee, and such signs so erected in violation

of any prior ordinance or ordinances shall be subject to removal as provided in this section. Signs which are now in existence and were constructed in compliance with the terms of any prior ordinance or ordinances of the City of Red Bank, Tennessee, but which are not in conformance with the provisions of this chapter are hereby designated as legal, non-conforming signs, and shall be abated and removed hereafter in accordance with this section.

(2) For on premise signs, any occupant who applies for a new sign permit for any on premise pole sign shall be required to either remove or cause the removal of all legal nonconforming pole signs and the devices designated in or on the area of the property occupied by such occupant, or to bring all non-conforming signs on that property into conformance with the provisions of this chapter, before any new permit may be issued. Any occupant who applies for a new sign permit for any on premises attached sign shall be required to either remove all legal non-conforming signs in or on the area of the premises occupied by such occupant, or to bring such nonconforming signs into conformance with the provisions of this chapter, before any new sign permit may be issued. For the purpose of this subsection, the term "property" is intended to mean the entire tract of real property which has been assigned a separate tax map and parcel number and is not intended to be limited to a separate unit of a multi-unit property.

(3) A single occupant non-conforming sign shall be made conforming if one of the following situations occur:

(a) Any modification to the sign structure, other than normal maintenance necessary to retain the original structure of the sign; or

(b) Destruction or deterioration of the sign to an extent that the current cost of repair exceeds fifty percent (50%) of the current cost of constructing a new sign which duplicates the old; or,

(c) Change of business/ownership name or change of sign face to reflect new ownership, business logo, message; or

(d) Any sign prohibited by the adoption of this chapter shall be removed within ninety (90) days from written notification if erected, constructed, or placed subsequent to the adoption of this chapter.

(4) A multiple occupant non-conforming sign shall be made conforming if one of the following situations occur:

(a) Any modification to the sign structure, other than normal maintenance necessary to retain the original structure of the sign; or

(b) If two-thirds of the occupants are removed from the structure.

(c) Change of business/ownership name or change of sign face to reflect new ownership, business logo, message; or

(d) Any sign prohibited by the adoption of this chapter shall be removed within ninety (90) days from written notification if erected, constructed, or placed subsequent to the adoption of this chapter.

**9-846. "Various Building and Safety Codes Applicable".** Notwithstanding any other provision of this chapter the various building and safety codes of the City of Red Bank, as now enacted or hereafter adopted or amended, including but not limited to the electrical code, shall be applicable to all signs and sign structures.

**9-847. "Political signs regulated".**

(1) **Scope of article - definition of political sign**. Notwithstanding anything in this chapter to the contrary, the provisions of this chapter shall govern the use and placement of political signs. "Political sign" shall mean any sign which supports or opposes the candidacy of any candidate for public office or urges action on any other issue on the ballot of a primary, general or special election.

(2) **Political signs regulated**. Political signs with a sign area of more than 32 square feet shall be subject to the provisions of this code and/or this chapter governing off-premise signs, provided, that any political sign at campaign headquarters shall be governed as on premise signs. Political signs with a sign area of 32 square feet or less shall be subject to the following restrictions:

(a) No such political sign may be placed closer than 7 feet to the pavement or curb of any public or private street, except that poster type signs, no larger than 18" (eighteen inches) by 24" (twenty-four inches) may be placed not closer than 3 feet from the pavement or curb of any public or private street. No political sign shall be placed upon any city property.

(b) No such political sign may be placed closer than 25 feet to the closet edge of the pavement or curb of two (2) intersecting public or private streets. See definition Visibility Triangle.

(c) No such political sign may be placed upon or attached in any way to any tree, fence, fence post, utility pole, light pole, or rock located on public property or upon the right-of-way on any street.

(d) All such political signs may be placed sixty (60) days before an election and shall be removed within fifteen days after the election to which they refer



has been held. Such signs erected for a primary election may remain only if they continue to be valid for the next general election.

(e) The offices of the building inspector or the city manager may order the removal of any such sign which, in its or their opinion, may constitute a hazard to the public traveling on public streets.

(f) No such sign shall be located in a position which is principally designed to be viewed from a controlled access facility.

(g) No such sign may be placed upon a public sidewalk.

(h) Any person or organization planning to erect such political signs shall first file with the office of the building inspector the name, address and telephone number of the person or persons who shall be responsible for the proper erection and timely removal of such signs. Signs that are in violation of this Chapter will be removed and placed at city hall. The City will not be responsible for the safe keeping of any of the signs removed.

(i) Removal – the City public works department may remove political signs which are located so as they impair visually or otherwise, traffic and or which are located on the public right of way or on public property.

(j) Penalty - Any person, firm, corporation or entity violating the provisions hereof may be fined in the amount of up to twenty-five (25) dollars for each violation. In the case of continuing violations, each day shall constitute a separate violation(s).

**9-848. “Set back variances and procedures”.**

(1) The City Commission shall have the authority to grant a limited variance and to lessen the applicable set back requirements by up to five (5) feet from the right-of-way set back requirements for on premises pole or monument signs as otherwise set forth in this ordinance.

(2) No variance shall be issued except upon:

(a) Written application by the owner to the city commission on forms furnished by the city;

(b) Written notice of the application and the date and time of public hearing being issued to all adjoining land owners within two hundred (200') feet of the premises for which the application is pending;

(c) A public hearing shall be advertised and held when the application will be considered and a finding by a majority of the commissioners that multiple legal non-conforming signs exist upon adjacent properties within 200 feet of the requested location which would effectively block the view of the proposed on premises detached sign if a variance were not granted;

(d) The location of the proposed detached on premises sign will not impede visibility and/or traffic flow on the adjacent public street and will not impair vehicular traffic or pedestrian traffic, from a safety and traffic visibility standpoint, for ingress to or egress from the property upon which the proposed sign is to be located.

(e) In no case shall the applicable set back distance be lessened by more than five (5') feet;

(f) In no case shall the applicable set back distance be lessened so as to permit a sign to be located any closer than five (5') feet to any sidewalk;

(g) The placement of the proposed sign will not block or impair the view of any existing legal non-conforming sign from the adjacent public road;

(h) In no case shall the variance be granted if it would violate any other signage separation distance requirements or the other provisions of the "sign ordinance."

(3) Any premises owner desiring to obtain a variance shall obtain and file an application to the city manager's office with detailed plans, drawing and scaled distances showing the size and proposed location of the sign.

#### **9-849. "Premises Identification"**

(1) All buildings, both residential and commercial within the City of Red Bank shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or English alphabet letters. Numbers must be located on a house, garage, or other similar building and shall be a minimum of four (4) inches in height with a minimum stroke width of one-half (0.5) inches.

(2) All properties located within the City of Red Bank that has access to the rear by an alley way or street shall display approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or English alphabet letters. Numbers shall be a minimum of four (4) inches in height with a minimum stroke width of one-half (0.5) inches. Numbers must be located on the house, garage, or other similar building within thirty (30) feet of the rear property.

#### **9-850 "Sign Illumination"**

(1) Sign illumination shall only be achieved through the following standards. All electrical service to ground mounted signs shall be placed underground. Electrical service to other signs shall be concealed from public view.

(2) Awnings with signage included should always be externally illuminated.

#### **"General Illumination Standards"**

1. Illumination should not interfere with or distract from the message conveyed by the sign and shall not exceed (0.3) foot candles over ambient light conditions.
2. Lightning for signs shall not create a hazardous glare or moving digital glare for pedestrians or vehicles either in a public street or on any private premises.
3. The light source, whether internal to the sign or external, shall be shielded from view. This requirement is not intended to preclude the use of creative exposed lightning.
4. Illumination should be appropriate for the location, use and character of the neighborhood.
5. Illumination should seem integrated into the façade.
6. Illuminated signs of any kind shall not be illuminated from 10 p.m. - 6 a.m. When located next to or on any property adjacent to any residential zoned property.
7. Flashing, blinking, revolving, or rotating lights are not permitted.
8. No utilization of digital, LED, LCD or shimmer lights propelling technology except as expressly allowed in the Ordinance, and only then if the same is not likely to be distracting to motorists and the general public.
9. All exposed conduit and junction boxes should be concealed from public view.

**“Internal Illumination Standards”**

1. Internally illuminated sign cabinets that allow the entire face to illuminate are prohibited.
2. The sign background or field should be opaque of a non- reflective material.

**“External Illumination Standards”**

1. Only external lighting fixtures that project light on a sign from above or below are permitted. Light fixtures supported on the front of the building should cast light on the sign and a portion of the facade immediately around the sign.
2. Light fixtures should be simple and unobtrusive in appearance and size.
3. Light fixtures should be positioned so as not to obscure the sign’s message and graphics.
4. Light sources shall be shielded and such that the light source is directed away from pedestrians, residential properties or motorists. Light sources should be directed against the sign face such that it does not shine onto adjacent properties. Bare light bulbs shall not be exposed.

## **ORDINANCE 19-1148**

### **AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO AMEND THE RED BANK ZONING ORDINANCE NO. 15-1020 FOR THE CITY OF RED BANK, TENNESSEE, PURSUANT TO AUTHORITY GRANTED BY SECTION 13-7-201, TENNESSEE CODE ANNOTATED BY AMENDING TITLE 14, CHAPTER 11, SECTIONS 1101 ET SEQ., OF THE RED BANK CITY CODE, REGULATING TELECOMMUNICATIONS STRUCTURES.**

**WHEREAS**, it is necessary and beneficial for the health, safety, and welfare of the community to update the zoning regulations for development of Wireless Telecommunications Facilities in the City of Red Bank; and,

**WHEREAS**, it is important to accommodate the growing need and demand for telecommunications services while protecting the character of the City, its rights-of-way, and its neighborhoods; and,

**WHEREAS**, it is necessary for the City to establish procedures and standards in compliance with the Competitive Wireless Broadband Investment Deployment and Safety Act of 2018, as codified at T. C. A. §§13-24-401, et. seq.; and

**WHEREAS**, there is a need to establish standards for location, aesthetics and compatibility for small cell communication structures and uses, and to update the standards for other kinds of Telecommunications Facilities; and,

**WHEREAS**, the City is committed to encouraging a safe, reliable, efficient, integrated and connected system of streets that promote access, mobility and health for all people, regardless of their age, physical ability, or mode of transportation; and,

**WHEREAS**, it is necessary to encourage the location and Collocation of Transmission equipment on existing structures in order to reduce the need for new Towers and support structures, thereby minimizing visual clutter, public safety impacts, and effects upon the natural environment and wildlife as well as to encourage concealed technologies and the use of public lands, buildings, and structures as locations for Telecommunications Facilities; and,

**WHEREAS**, there is a need to encourage the availability of affordable, high-speed internet and cellular telephone and data access for business and residents, acknowledging that a growing number of businesses are conducted in whole or in part from homes and/or while mobile that increasingly, education incorporates online learning necessitating good home internet connections for students and faculty, and that government participation and emergency services to the general public are enhanced by fast and reliable cellular and home internet connectivity; and,

**WHEREAS**, it is important to encourage coordination between suppliers and providers of telecommunications services to maximize use of existing facilities and structures; and,

**WHEREAS**, establishing predictable and balanced regulations within the authority reserved for local land use determination is in the best interest of the citizens of the City of Red Bank; and

**WHEREAS**, a mechanism for the zoning and permitting of small cell telecommunications uses, and an update of existing zoning provisions for other kinds of telecommunications uses is in the best interest of the citizens of Red Bank; and,

**WHEREAS**, such changes have been determined necessary and beneficial to the community to update the zoning regulations, and has;

**WHEREAS**, the changes herein come with a recommendation for approval by the Red Bank Municipal Planning Commission, and;

**WHEREAS**, the Planning Commission provided an opportunity to submit comments in favor of or against the drafted Telecommunications Ordinance at an advertised public hearing held in conjunction with its regular meeting on February 21, 2018

**WHEREAS**, the Red Bank Planning Commission has approved and recommended approval of the revisions and amendments hereafter set forth; and

**WHEREAS**, the City Commission provided an opportunity to submit comments in favor of or against this Ordinance regulating telecommunications structures at an advertised public hearing on March 19, 2019, prior to the final reading of this ordinance.

**NOW THEREFORE, BE IT ORDAINED**, by the City of Red Bank that the Red Bank Zoning Ordinance is hereby amended as follows:

**Title 14 – Chapter 11 Sections 1101 et seq.**, Radio, Television, Telephone, Satellite and Microwave Communication Towers is Amended by deleting said chapter in its entirety and substituting in its place and stead the following, Title 14, Chapter 11, TELECOMMUNICATIONS STRUCTURES:

**Section 1101.**

**A. Purpose.**

The purpose of this Ordinance is to establish general standards in accordance with federal and state laws for the siting of Telecommunications Facilities, including Towers, Transmission Equipment, Potential Support Structures, and related appurtenances, including installations on within public Rights-of-Way where permitted herein. In addition to the standards set forth in these guidelines, applications must follow all applicable City, State, and Utility Board standards. The guidelines address federal and state laws for the siting, construction, installation, collocation, modification, operation, and removal of wireless communications facilities in the public Right-of-Way.

The goals of this Ordinance are to:

1. Protect Residential Neighborhoods, corridors, and certain districts from adverse impacts of Telecommunications Facilities, including Towers; and
2. Encourage the location of Towers in non-residential areas; and
3. Minimize the total number of Towers in the city by encouraging Colocation strategies; and
4. Encourage creative and effective use of Stealth Technology for the concealment of new installations of Telecommunications Facilities; and
5. Provide standards for the siting, construction, installation, collocation, modification, operation, and removal of wireless communications facilities in the City's right of way and charges to be uniformly applied to all applicants.
6. Establish basic criteria for applications to site wireless communications facilities in the right of way and provide clear guidance to applicants.
7. Ensure that wireless communications facilities will conform to all applicable health and safety regulations and will blend into their environment to the greatest extent possible.
8. Enhance the ability of wireless communications carriers to deploy wireless infrastructure quickly, effectively, and efficiently so that residents, businesses, and visitors benefit from ubiquitous and robust wireless service availability.
9. Comply with, and not conflict with or preempt, all applicable state and federal laws.

**Section 1102.**

**General Definitions.**

For purposes of this subsection, the following General Definitions are included to provide greater clarity to this ordinance for specific terms referenced herein:

*Aesthetic Plan*: Means any publicly available written resolution, regulation, policy, site plan, or approved plat establishing generally applicable aesthetic requirements within the authority or designated area within the authority. An aesthetic plan may include a provision that limits the plan's application to construction or deployment that occurs after adoption of the aesthetic plan.

*Alternative Structure*: A structure that is not primarily constructed for the purpose of holding Antennas but on which one or more Antennas may be mounted, including but not limited to buildings, water tanks, pole signs, billboards, church steeples, electric power transmission poles/, and streetlights.

*Antenna*: An apparatus designed for the transmitting and/or receiving of electromagnetic waves, including telephonic, radio or television communications. Types of elements include omni- directional (whip) Antennas, sectionalized or sectorized (panel) Antennas, multi or single bay (FM& TV), Yagi, or parabolic (dish) Antennas. This definition does not include Towers.

*Applicant*: Means any person who submits an application pursuant to this part.

*Application*: Means a request submitted by an applicant to an Authority.

*Architecturally Indiscernible*: Means a building, addition or feature containing or housing an Antenna or related equipment which is architecturally harmonious in such aspects as façade material, height, bulk, scale, form, and design with the building or structure to which it is to be housed or located.

*Authority*: Means:

1. The City of Red Bank.
2. Upon state-owned property, the state.

This definition does not include a government-owned electric, gas, water, or wastewater utility that is a division of, or affiliated with a municipality, or county.

*Authority-owned Potential Support Structure (PSS)*: Means a PSS owned by an authority but does not include a PSS owned by a distributor of electric power, regardless of whether an electric distributor is investor-owned, cooperatively owned, or government-owned.

*Base Station* means equipment and non-Tower supporting structure at a fixed location that enables Federal Communications Commission ("FCC") licensed or authorized wireless telecommunications between user equipment and a communications network. Examples include Transmission Equipment mounted on a rooftop, water tank, silo or other above ground structure other than a Tower. The term does not encompass a Tower as defined herein or any equipment associated with a Tower. "Base Station" includes, but is not limited to:

1. Equipment associated with wireless telecommunications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul; radio transceivers, Antennas, coaxial or fiber optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks); any structure other than a Tower that, at the time the application is filed under this section, supports or houses equipment described in this definition that has been reviewed and approved under the applicable zoning or siting process, or under another regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
2. "Base Station" does not include any structure that, at the time the application is filed under this section, does not support or house wireless Transmission Equipment.

*Breakpoint Technology*: The engineering design of a Monopole, or any applicable Support Structure, wherein a specified point on the monopole is designed to have stresses concentrated so that the point is at least five percent (5%) more susceptible to failure than any other point along the monopole so that in the event of a structural failure of the Monopole, the failure will occur at the Breakpoint rather than at the base plate, anchor bolts, or any other point on the Monopole.

*Cellular on Wheels (COW)*: A temporary wireless service facility placed on property to provide short term, high volume telecommunications services to a specific location and which can be

easily removed from the property.

*Clear Zone:* Means that portion of the Right-of-Way that is intended for pedestrian traffic along the sidewalk. The minimum width and location of the Clear Zone shall be determined by the paved area of any sidewalk within the Right-of-Way, however, in all instances it must be a minimum of forty-eight (48) inches of width and otherwise compliant with the Americans with Disabilities Act (ADA) for public sidewalk accessibility. In areas of congested pedestrian activity in the Form Based Code District, a wider minimum portion of the sidewalk may be required. The location of the Clear Zone shall be consistent for the entire block, and in most instances it shall be required to be located immediately adjacent to the facade of adjoining properties. The Clear Zone must at all times be free from any items, obstacles, or barriers so as to allow clear movement for pedestrians along the public Right-of-Way.

*Co-Locate, Collocating, and Colocation:* In their respective noun and verb forms, to install, mount, maintain, modify, operate, or replace small wireless facilities on, adjacent to, or related to a Potential Support Structure (PSS). “Colocation” does not include the installation of a new PSS or replacement of authority-owned PSS. The term(s) may also refer to shared use of existing Towers by small cell wireless, or other wireless telecommunications installations. Co-location is preferred to the construction of new Towers, or PSSs when practical.

*Communications Facility:* means the set of equipment and network components, including wires and cables and associated facilities, used by a Communications Service Provider to provide Communications Service.

*Communications Service:* Means cable service as defined in 47 U.S.C. § 522(6), telecommunications service as defined in 47 U.S.C. § 153(53), information service as defined in 47 U.S.C. § 153(24) or wireless service.

*Communications Service Provider:* Means a cable operator as defined in 47 U.S.C. § 522(5), a telecommunications carrier as defined in 47 U.S.C. § 153(51), a provider of information service as defined in 47 U.S.C. § 153(24), a video service provider as defined in § 7-59-303, or a wireless provider.

*Fee:* Means a one-time, nonrecurring charge.

*Historic District:* Means a property or areas zoned as an historic district or zone pursuant to Tennessee Code Annotated § 13-7-404.

*Distributed Antenna System (DAS):* A system consisting of: (1) a number of remote communications nodes deployed throughout the desired coverage area, each including at least one Antenna for transmission and reception; (2) a high capacity signal transport medium (typically fiber optic cable) connecting each node to a central communications hub site; and (3) radio transceivers located at the hub site (rather than at each individual node as is the case for small cells) to process or control the communications signals transmitted and received through the Antennas.

*Eligible Facilities Request:* A request for modification of an existing Tower or Base Station involving Collocation of new Transmission Equipment; removal of Transmission Equipment; or replacement of Transmission Equipment that does not Substantially Change the physical dimensions of such Tower or Base Station.

*Eligible Support Structure:* Any Tower or Base Station existing at the time the application is filed with the City. For purposes of this ordinance, the definition of “Eligible Support Structure” shall include utility structures currently hosting fiber, cable and wire used in the distribution of telecommunications services.

*Local Authority:* Means the City of Red Bank.

*Micro Wireless Facility:* Means a small wireless facility that:

1. Does not exceed twenty-four inches (24”) in length, fifteen inches (15”) in width, and twelve inches (12”) in height; and
2. The exterior antenna, if any, does not exceed eleven inches (11”) in length.

*Monopole:* A structure that consists of a single vertical pole without guy wires, designed and erected on the ground to support communications antennas and connected appurtenances. A monopole could either be a Tower or a Small Cell Support Structure but would not include Non-Tower Wireless Communications Facilities since those are not originally designed to support



communications Antennas and connected appurtenances.

Non-Tower Wireless Communications Facilities: Wireless communications facilities other than Tower-based wireless communications. This includes facilities mounted to existing structures that were not originally intended to accommodate wireless communications facilities, such as buildings, Utility Poles, water towers, steeples, billboards, flagpoles, etc.

Ordinance: Shall refer to this and other applicable sections of the Red Bank Municipal Code, as amended.

Person: Means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including an Authority.

Personal Wireless Service Facility (PWSF): means any staffed or unstaffed location for the transmission and/or reception of radio frequency signals or other personal wireless communications, including commercial mobile services, unlicensed wireless services, wireless broadband services, and common carrier wireless exchange access services as defined in the Telecommunications Act of 1996 (Telecommunications Act), and usually consisting of an Antenna or group of Antennas, transmission cables, feed lines, equipment cabinets or shelters, and may include a Tower. Facilities may include new, replacement, or existing Towers, replacement Towers, collocation on existing Towers, Base Station attached concealed and non-concealed Antenna, dual purpose facilities, concealed Towers, and non-concealed Towers, so long as those facilities are used in the provision of personal wireless services as that term is defined in the Telecommunications Act.

Planning Commission: Shall mean the City of Red Bank Municipal Planning Commission.

Potential Support Structure for a Small Wireless Facility (PSS): Means means a pole or other structure used for wireline communications, electric distribution, lighting, traffic control, signage, or a similar function, including poles installed solely for the collocation of a small wireless facility. When "PSS" is modified by the term "new," then "new PSS" means a PSS that does not exist at the time the application is submitted, including, but not limited to, a PSS that will replace an existing pole. The fact that a structure is a PSS does not alone authorize an applicant to collocate on, modify, or replace the PSS until an application is approved and all requirements are satisfied pursuant to this part.

For the purposes of this Ordinance, a PSS could include a Monopole or a Non-Tower Wireless Communications Facility that is erected within the public Right-of-Way or on private property and that does not exceed forty feet in height in zoning districts allowing residential uses, or the lesser of either, the maximum building height in the associated zoning district, or no more than forty (50) feet in zoning districts that disallow residential uses.

Qualified Co-Location Request: Any request for Collocation of a PWSF on a Tower or Base Station that creates a Substantial Change in the facility but is entitled to processing within 90 days under 47 U.S.C. §332(c)(7).

Rate: Means a recurring charge.

Residential Neighborhood: means an area within a local authority's geographic boundary that is zoned or otherwise designated by the local authority for general purposes as an area primarily used for single-family residences and does not include multiple commercial properties and is subject to speed limits and traffic controls consistent with residential areas;

Right-of-Way or ROW: Means the space, in, upon, above, along, across, under, and over all public streets, highways, avenues, roads, alleys, sidewalks, tunnels, viaducts, bridges, skywalks under the control of the Authority, and any unrestricted public utility easement established, dedicated, platted, improved, or devoted for utility purposes and accepted as such public utility easement by the authority, but excluding lands other than streets that are owned by the authority.

Small Wireless Facility: Means a wireless facility with:

1. An Antenna that could fit within an enclosure of no more than six (6) cubic feet in volume; and
2. Other wireless equipment in addition to the antenna that is cumulatively no more than twenty-eight (28) cubic feet in volume, regardless of whether the facility is

ground-mounted or pole-mounted. "Other wireless equipment" does not include an electric meter, concealment element, telecommunications demarcation box, grounding equipment, power transfer switch, cut-off switch, or a vertical cable run for the connection of power and other services; and

3. Small Wireless Facility includes a Micro Wireless Facility.

Smart Pole: Means any pole, which consists of a design pre-approved by the City of Red Bank, for the purpose of also serving as a Telecommunications Facility Support Structure, including Potential Support Structures for a Small Wireless Facility.

Staff: Means those employees of the City of Red Bank assigned to support and/or administer the powers and duties prescribed to the Red Bank Municipal Planning Commission.

Stealth Technology: Means design techniques applied to telecommunications structures that will help conceal them or make them less visible to the casual observer. Implementation of such techniques shall have the goal of making a telecommunications Architecturally Indiscernible. Such techniques may include, but are not limited to, facilities constructed to resemble light poles, trees, flagpoles, steeples, or other streetscape elements. Stealth Technology may also include concealment wrap, landscaping, and placing applicable structures underground.

Substantial Change: Means a modification or Collocation of an Eligible Support Structure if it meets any one or more of the following criteria:

1. A Telecommunications Facility Collocation on an existing PSS structure within a Right-of-Way that increases the overall height of the structure, Antenna and/or Antenna array more than 10% or 10 feet, whichever is greater.
2. A Telecommunications Facility Collocation for Towers not in a Right-of-Way that protrudes from the structure more than 10% or 20 feet, whichever is greater, or the width of the structure at the elevation of the Collocation, and for Towers within a Right-of-Way, that protrudes from the structure more than 6 feet.
3. A Telecommunications Facility Collocation on an existing structure that fails to meet current building code requirements (including wind loading).
4. A Telecommunications Facility Collocation that adds more than four (4) additional equipment cabinets or one (1) additional equipment shelter.
5. A Telecommunications Facility Collocation that requires excavation outside of existing leased or owned parcel or existing easements.
6. A Telecommunications Facility Collocation that defeats any existing concealment elements of the structure.
7. A Telecommunications Facility Collocation that fails to comply with all conditions associated with the prior approval of the structure except for modification of parameters as permitted in this section.

Support Structure: Means anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground.

Telecommunications Facility: Means one or more Antenna, utility structures currently hosting either fiber, cable or wire, Tower, Base Station, mechanical and/or electronic equipment, conduit, cable, fiber, wire, and associated structures, enclosures, assemblages, devices and supporting elements that generate, transmit or produce a signal used for communication that is proposed by an entity other than the City of Red Bank, including but not limited to radio/TV/satellite and broadcast Towers, telephone service, including new microwave or cellular Towers, PWSF, DAS, Small Wireless Facilities and COW.

Tower: A support structure and all appurtenances constructed for, or an existing facility that has been adapted for, the location of transmission or related equipment to be used in the provision of any telecommunications services or Personal Wireless Service Facility. This includes traditional commercial cellular Towers and Transport Poles. For the purposes of this Ordinance, a Tower is differentiated from a Potential Support Structure for a Small Wireless Facility in that a Tower is a Monopole that may exceed the permitted building height of the associated zoning district and is

not permitted within the public Right-of-Way. A Tower may be concealed or non-concealed. Non-concealed Towers include:

1. Guyed - A style of Tower consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of wires that are connected to anchors placed in the ground or on a building; and
2. Lattice - A self-supporting, tapered style of Tower that consists of vertical and horizontal supports with multiple legs and cross bracing, and metal cross strips or bars to support Antennas.
3. Monopole - A style of freestanding Tower consisting of a single shaft usually composed of two (2) or more hollow sections that are in turn attached to a foundation. This type of Tower is designed to support itself without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on the ground or on a building's roof. All feed lines shall be installed within the shaft of the structure.

Transport Pole: A type of Tower that includes microwave backhaul. Transport Poles are subject to all requirements associated with a Tower.

Transmission Equipment: Equipment that facilitates transmission for any Federal Communications Commission licensed or authorized wireless communications service, including, but not limited to radio transceivers, Antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with, but not limited to private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Utility, Overhead: Utility infrastructure that is located primarily above ground as determined by Staff. For the purposes of this Ordinance, Overhead Utilities include, but are not limited to power lines and communications lines.

Utility Pole: A structure used for the support of electrical, telephone, cable television or other video services, street lighting, or other similar cables and located within the public Right-of-Way or Utility easement. A Small Cell Support Structure may be incorporated onto a Utility Pole provided such pole does not extend, with the application of Small Cell Support Structures.

Utility, Underground: Utility infrastructure that is located primarily underground as determined by Staff. For purposes of this Ordinance, underground utilities include, but are not limited to water lines, sanitary sewer lines, storm sewer lines, culverts, natural gas lines, power lines, certain Small Cell Support Systems/DAS structures, and communications lines.

Wireline Backhaul Facility: Means a communications facility used to transport communications services by wire from a wireless facility to a network.

Wireless Communications Facility: Means means equipment at a fixed, unstaffed location typically consisting of a Tower or Base Station that enables wireless communications between user equipment and a communications network, including:

1. Equipment cabinets associated with wireless communications.
2. All materials or techniques used to conceal the installation.
3. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.
4. A "Wireless Communications Facility" does **not** include:
  - i. The structure or improvements on, under, or within which the equipment is collocated.
  - ii. Wireline Backhaul Facilities; or
  - iii. Coaxial or fiber-optic cable that is in between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

5. A “Wireless Facility” includes small wireless facilities.

Wireless Provider: Means a person who provides wireless service.

Wireless Services: Means any service using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile provided to the public.

### **Section 1103.**

#### **Colocation Requirements.**

Collocation or location on existing Alternative Structures is required where possible. Applicants for a new Telecommunications Facility must explore all Collocation opportunities and opportunities to locate their Antenna on existing Alternative Structures whenever possible. Any Applicant for a Telecommunications Facility shall utilize Eligible Support Structures first and then Alternative Structures.

### **Section 1104.**

#### **Exemptions and Administratively Approved Sites.**

Determinations as to exemptions and administrative approval shall be provided by the Staff upon submission of a completed application. A Special Permit issued by the Red Bank Board of Zoning Appeals for Transmission Equipment shall not be required under the following circumstances:

1. Concealed Devices -Transmission Equipment which is concealed within a building or structure so that it is Architecturally Indiscernible may be permitted in all zoning districts subject to building permit procedures and standards, as may be amended.
2. Additions To Existing Structures In Any Zoning District- An Antenna, a dish or transmitter may be placed inside or on an existing structure, including but not limited to steeples, silos, spires, utility water tanks or Towers, athletic field lighting poles, utility poles and similar structures (but excluding single-family or duplex dwellings for any commercial use), subject to structural adequacy and provided the addition of the Antenna and any supporting structure shall not create a Substantial Change. The setback requirements for freestanding Towers shall not be applied to existing structures used to support or house the Antenna. Additional antennas may be placed on existing Towers without obtaining a Special Permit. The placement of Antennas in or on existing structures or Towers shall be subject to the screening landscape standards of this section if the addition of the Antenna or associated equipment causes any significant change to the ground level view of the existing structure as determined by the Building Official.
3. Existing Towers -Antennas, dishes, or similar equipment or additional users which do not create a Substantial Change, may be added on existing Towers without obtaining a Special Permit, but shall be subject to all applicable zoning, set-back, design, building permits, and building code regulations.

### **Section 1105.**

#### **Special Permits Required:**

Except as exempted by regulations of a particular zone, Special Permits shall be required for all Towers as provided herein:

1. Subject to the issuance of a Special Permit by the Board of Appeals for Variances and Special Permits, commercial Towers may be permitted to locate on publicly owned property in all zoning divisions where special permits are required.
2. Subject to the issuance of a Special Permit by the Red Bank Board of Zoning Appeals, commercial Towers may only be permitted to locate on any property whether publicly or privately owned that is located in any zone where Towers are listed as a permitted use.
3. The issuance of any Special Permit by the Red Bank Board of Zoning Appeals is subject to all landscaping standards, co-location requirements and other requirements set forth in the Special Permit procedures.

## **Section 1106.**

**Telecommunications Facilities located outside of the Right-of-Way:** Such facilities are subject to the following conditions and approval by the Planning and Building Department Staff and/or the Red Bank Board of Zoning Appeals.

- 1. Special Permit Procedures:** A completed application and the following information must be provided to the Building Department when applying for a Special Permit:
  - a. A schematic site plan, including schematic landscape plan with an elevation view of the type of facility to be placed on the site.
  - b. The site plan shall depict where the Tower is to be located on the site and where additional co-located Transmission Equipment, shelters or vaults can be placed.
  - c. Construction plans: Detailed construction plans or drawings prepared by a licensed engineer certifying that the Tower has sufficient structural integrity and equipment space to accommodate multiple users shall be required at the time of applying for a building permit.
  - d. Landscape plans: Landscape plans that comply with the landscaping requirements of this ordinance shall be required at the time of applying for a building permit.
  - e. Identification of the intended user(s) of the Tower.
  - f. A statement prepared by the applicant that considers other alternatives to the proposed site and the impact of the proposed Tower. A map of the coverage area

identifying all existing Towers and other sites with suitable zoning and adequate land area to site a Tower shall be included. The applicant shall justify the selection of the proposed site over other available alternative sites within the identified coverage area weighing the relative impacts of the proposed site to other available sites with particular consideration of the impact of the Tower upon adjacent properties, historic areas, scenic vistas and residential neighborhoods.

- g. Towers shall be sited so as to be as unimposing as practical. The applicant shall demonstrate that through location, construction, or camouflage, the proposed facility will have minimum visual impact upon the appearance of adjacent properties, views and vistas of historic areas, scenic assets, and the integrity of residential neighborhoods. False representations in an application shall be grounds for denial of a special exceptions permit. The Board of Appeals is specifically empowered to utilize its collective judgment in assessing and approving or denying the application based upon such information.
- h. Documentation of the number of other users that can be accommodated within the design parameters of the Tower as proposed. If the Tower will not accommodate the required number of users, the applicant must demonstrate with compelling evidence why it is not economically, aesthetically, or technologically feasible to construct the Tower with the required co-location capability. Applications failing to fulfill the co-location requirement are not eligible for administrative approval by the Building Official or other Staff.
- i. A statement indicating the owner's commitment to allow feasible shared use of the Tower within its design capacity for co-location.
- j. Documentation of a valid leasehold or ownership interest in the underlying property.
- k. The applicant or the landowner shall provide proof of the establishment of a financially secure and legally enforceable method of removing a Tower when it ceases to be used for a period of twelve (12) months. This financial assurance can be provided through a sinking fund, a lien upon land which has a greater unencumbered appraised value than the cost of removal of the Tower, a removal bond, a letter of credit or any alternative financial arrangement which is approved by the city's Finance Officer as to financial adequacy and the City Attorney as to legal enforceability. If the applicant or landowner owns more than one (1) Tower, a blanket removal bond or alternative financial assurance may cover multiple sites.

#### **Section 1107.**

**Fees:** A non-refundable fee of one thousand five hundred (\$1,500) dollars must accompany any site plan submitted for the purposes of securing a building permit for the construction of a Tower. The fee covers engineering and other costs associated with the review of a site plan for a Tower.

#### **Section 1108.**

**Aesthetics:** Towers and Antennas shall meet the following requirements.

- a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the Federal Aviation Administration (FAA), be painted a neutral color to reduce obtrusiveness.
- b. At a Tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will enable them to blend into the natural setting and surrounding built environment.
- c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

#### **Section 1109.**

**Landscape Requirements:** Tower sites shall be subject to the following landscaping standards:

- a. The visual impact of a Tower on adjacent properties and streets shall be minimized to the extent practicable by utilizing existing topography, structures, and natural vegetation to screen the Tower. For all visual exposures not equivalently screened by existing structures or natural vegetation, all Tower sites shall be landscaped with a ten (10) foot deep landscape yard with evergreen trees spaced a maximum of ten (10) feet on-center or two (2) staggered rows of shrubs spaced a maximum of eight (8) feet apart. All plantings shall meet the installation and planting size requirements as specified below:
- i. **Intent:** All landscaping materials shall be installed in a professional manner, and according to accepted planting procedures specified in the current edition of American Standards for Nursery Standard.
  - ii. **Screening Trees:** Screening trees are used to meet the tree planting requirements of this ordinance and shall be installed at a minimum height of eight (8) feet and have a minimum expected mature spread of eight (8) feet. Recommended species are American Holly, Foster Holly, Southern Magnolia, Eastern Red Cedar, Atlas Cedar, Deodar Cedar and Virginia Pine.
  - iii. **Screening Shrubs:** All screening shrubs shall be installed at a minimum size of three (3) gallons and have an expected maturity height of at least eight (8) feet and mature spread of at least five (5) feet. Recommended species include: Fragrant Olive, English Holly, Burford Holly, Nellie R. Stevens Holly, Wax Myrtle, Cherry Laurel, English Laurel and Leatherleaf Viburnum.
  - iv. **Prohibited Plants:** The following plants are prohibited from being used to meet these requirements due to problems with hardiness, maintenance, or nuisance: Kudzu Vine, Purple Loosestrife, Japanese Honeysuckle, Shrub Honeysuckle, Autumn Olive, Common Privet, Tree of Heaven, Lespedeza, Garlic Mustard, Paulownia, Multiflora Rose, Siberian Elm, Silver Poplar, Mimosa, Mulberry and Silver Maple.
  - v. **Maintenance:** The property owner (or lessee if so provided in a written lease) shall be responsible for the maintenance of all installed landscaping. All landscaped areas must present a healthy, neat and orderly appearance and shall be kept free from refuse and weeds. Any dead or diseased plant material shall be replaced by the property owner (or lessee if provided in a written lease) with new plantings that meet the requirements of these regulations.
- b. A break in the landscape not to exceed sixteen (16) feet in width shall be allowed for access for maintenance personnel and vehicles.
- c. New or existing vegetation, earth berms, existing topographic features, walls, screening fences, buildings and other features other than prescribed above may be used to meet the requirements of these regulations if the Director of Codes Administration finds that they achieve reasonably equivalent screening as specified in subsection (a) herein.
- d. In Commercial and Industrial Districts a sight-obscuring fence at least eight (8) feet in height and a minimum of seventy-five percent (75%) opaque may be substituted for screening trees or screening shrubs as specified in subsection (a) herein by special exception from the Board of Zoning Appeals when the applicant can demonstrate that it is impractical to provide living screening material.
- e. No screening shall be required if the applicant adequately demonstrates that base of the Tower site is not visible from adjoining property or is not otherwise visible from a dedicated Right-of-Way.
- f. Site landscaping is not required for Antennas which are being collocated on existing Towers, or which are being placed on other buildings or structures where the Antenna is allowed as an accessory use.

- g. No screening shall be required when this screening is explicitly prohibited by Federal Communications Commission regulations or is otherwise restricted by site limitations. The Red Bank Board of Zoning Appeals shall review and approve any deviations from the standards specified herein.

## Section 1110.

### Colocation Requirements:

- a. New Towers of a height of more than one hundred (100) feet and less than two hundred (200) feet must be designed and built to accommodate three (3) or more personal communication system carrier applications and must be made available upon reasonable terms for Collocation to at least three (3) additional single Antenna applications such as paging, 911, two-way, and emergency management communications. Additionally, the site must be sufficiently large enough to accommodate at least three (3) telecommunication equipment shelters, cabinets or additions to existing structures.
- b. New Towers of a height of two hundred (200) feet to two hundred fifty (250) feet must be designed and built to accommodate at least three (3) personal communication system applications and at least three (3) additional single Antenna applications plus at least one (1) additional personal communication system application and at least one (1) additional single Antenna application for each additional fifty (50) feet of height, to a maximum of six (6) personal service communication system carriers and six (6) single Antenna applications, to be made available upon reasonable terms for Collocation.

## Section 1111.

### Other Requirements:

- a. **Height:** No Tower shall exceed a height of two hundred and fifty (250) feet above grade.
- b. **Design Standards:** The proposed site plan and Tower design plans shall meet or exceed all applicable standards, as may be amended, including without limitation those of the Federal Communications Commission (FCC), American National Standards Institute (ANSI), and Institute of Electrical and Electronics Engineers (IEEE) Standards for power density levels and structural integrity, American Concrete Institute (ACI), American Standards Testing and Materials Institute (ASTM), the National Electrical Code, National Electrical Safety Code, and the American Steel Institute. The proposed site shall also be designed and built in compliance with Section 106 of the National Historic Preservation Act of 1996 if applicable.
- c. **Maintenance:** The property owner (or lessee if provided in a written lease) shall be responsible for the maintenance of all provided landscaping. All landscaped areas must present a healthy, neat and orderly appearance and shall be kept free from refuse and weeds. Any dead or diseased plant material shall be replaced by the property owner with new plantings that meet the requirements of these regulations.
- d. **Removal of Abandoned Antennas and Towers:** Any permitted Tower that is not operated as a personal communication system carrier application for a continuous period of twelve (12) months shall be considered abandoned and the owner of such Antenna or Tower shall remove same within ninety (90) days of receipt of notice from the Building Official. Failure to remove an abandoned Tower shall be deemed to be a violation of these regulations and shall be subject to the penalty. The owner of the Antenna or Tower may appeal the decision of the Building Official to the Board of Appeals for Variances and Special Permits, but at such hearing shall be required to show just cause why the Antenna or Tower should not be considered abandoned and subject to removal.
- e. **Setback:** Towers shall be set back from all property lines on which the Tower is located by the distance equal to the height of the lowest engineered Breakpoint on the proposed structure or the height of the Tower. Provided, however, the minimum setback for any Tower is fifty (50) feet.



- f. **Breakpoint Technology:** For purposes of these regulations, the engineered failure point is the location(s) on the Tower that is designed to fail when overstressed beyond the structural parameters of the Tower design. This failure point will cause the overstressed portion of the structure to fall in upon itself in such a way as to reduce the remaining stress on the structure to such a level that result in no further failures of the Tower structure.
  - i. The lowest engineered failure point is described such that if the Tower should collapse, the tallest remaining vertical section of the structure shall be equal to the setback from the abutting property lines.
  - ii. If the proposed Tower is designed with failure points that allow for the collapse of the structure upon itself, a letter stamped by a licensed Professional Structural Engineer evidencing the design and fall zone parameters of the proposed Tower shall satisfy the requirements determining the minimum fall zone setback distance.
  - iii. No portion of the Tower structure shall be designed or constructed so that the height of the Tower allows it to fall across the property line of the abutting property.
  - iv. The Tower must comply with building codes and other federal, state, and local regulations.
- g. **Guyed Towers:** Any Tower requiring the use of guy wires is prohibited. Monopoles and Lattice Towers are permitted.
- h. A sign furnished by the Staff shall be prominently posted by the applicant on the site of the proposed Tower for at least fifteen (15) consecutive days prior to the meeting of the Red Bank Board of Zoning Appeals to give notice to the public of the application and the Board meeting date.

## Section 1112.

**Telecommunications Facilities located inside of the public Right-of-Way** Towers as defined herein are prohibited within the right-of-way. Qualifying Telecommunications Facilities, including Potential Support Structures (PSS) for Small Wireless Facilities located within Rights-of-Way are subject to the following standards, conditions, procedures, along with Staff review and approval in accordance with Tennessee Code Annotated § 13-24-401 et seq.

1. **General Location Criteria.** The following shall apply to all Communication Facilities locating in the public Right-of-Way.
  - a. **Collocation Preference.** Whenever an applicant proposes to place a new wireless facility within 250 feet from an existing wireless facility, whether on a new pole or an existing potential support structure, the applicant must either collocate with the existing facility or demonstrate with clear and convincing evidence that a collocation is either not technically feasible or space on the existing facility is not potentially available.
  - b. **Adherence to an adopted Aesthetic Plan.** pursuant to TCA § 13-24-411, Construction or deployments shall adhere to the City's adopted Aesthetic Plan.
  - c. **General Limitation on New Poles.** The standards herein strongly discourage more than one new pole per 500 feet.
  - d. **Alignment with Other Poles.** The centerline of any new pole must be aligned with the centerlines of existing poles on the same sidewalk segment, but only if the new pole height does not conflict with overhead power utility lines and facilities.
  - e. **Setbacks for Visibility and Access.** Any new pole and/or equipment and other improvements associated with a new or existing pole must be set back from intersections, alleyways and driveways and placed in locations where it will not obstruct motorists' sightlines or pedestrian access. In general, no obstruction will occur when a new structure and/or equipment is setback at least (i) 50 feet from any

intersection; (ii) six (6) feet from any driveway cut or alleyway entrance or exit; or (iii) six (6) feet from any permanent object or existing lawfully-permitted encroachment in the public right-of-way, including without limitation bicycle racks, traffic signs and signals, street trees, open tree wells, benches or other street furniture, streetlights, door swings, gate swings or sidewalk café enclosures. An additional setback for a specific pole may be required when presumptively acceptable setback would nevertheless obstruct motorists' sightlines or pedestrian access.

- f. Obstructions.** Any new pole and/or equipment and other improvements associated with a new existing pole must not obstruct any:
- i. Worker access to any above-ground or underground infrastructure for traffic control, streetlight or public transportation, including without limitation any curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, barricade reflectors;
  - ii. Access to any public transportation vehicles, shelters, street furniture or other improvements at any public transportation stop
  - iii. Worker access to above-ground or underground infrastructure owned or operated by any public or private utility agency;
  - iv. Fire hydrant access;
  - v. Access to any doors, gates, sidewalk doors, passage doors, stoops or other ingress and egress points to any building appurtenant to the right-of-way; or
  - vi. Access to any fire escape.
- g. Americans With Disabilities Act.** Notwithstanding compliance with the requirements herein, structures and facilities shall not be in conflict with the Americans With Disabilities Act by hindering use of the Right-of-Way.
- h. Historic or Architecturally Significant Structures.** Any new pole and/or equipment and other improvements associated with a new or existing pole may not be placed directly in front of any historic or architecturally significant structures in prominent locations. Applicant must comply with federal rules regarding historic structures and require a Section 106 study (National Historic Preservation Act (NHPA)) on all applicable installation locations.
- i. Public Utility Easements.** The City may prohibit or limit deployment or colocation of Small Wireless Facilities in public utility easements when the easements are:
- i. Not contiguous with paved roads or alleys on which vehicles are permitted.
  - ii. Located along the rear of residential lots, parcels, or tracts.
  - iii. In an area where no electric distribution or telephone utility poles are permitted to be deployed.
- j. Potential Support Structures used for lighting.** The City may require lighting to be included on a replacement PSS.
- k. Deployments affecting regulatory signs.** If an applicant submits an application that will affect a regulatory sign as defined by the Manual on Uniform Traffic Control Devices, or any sign requiring breakaway supports, the City may deny the application. Under these circumstances, the applicant may seek reconsideration of the design through a conference which shall be held within thirty (30) days of such a request by the applicant.
- l. Unsafe, abandoned, or inoperable deployments.** When a deployment as regulated herein is abandoned, deemed unsafe, or rendered inoperable, the City shall remove or cause the removal or repair of the deployment in order to restore the Right-of-Way to a safe condition.
- m. Undergrounding.** The City may require an applicant to comply with undergrounding requirements in the Right-of-Way for compliance in certain

circumstances or locations, or to comply with an established Aesthetic Plan.

- n. Restoration and Maintenance of the Right-of-Way.** The City may require an applicant to:

  - i. Repair damage caused by entities entitled to deploy infrastructure in a Right-of-Way, including damage to public roadways, sidewalks or other pedestrian facilities, and bicycle paths, and to other utility facilities placed in a ROW consistent with established policies.
  - ii. Require maintenance or relocation of infrastructure deployed in the ROW, timely removal of infrastructure no longer utilized, and require insurance, a surety bond, or indemnification for claims arising from the applicant's negligence consistent with established policies.
- o. Work permits.** Notwithstanding approval of applications as controlled within this Ordinance, the City shall also require applicants to obtain work, or traffic permits and pay the established fees if any prior to the deployment of a PSS or Small Wireless Facility.
- p. Categories of Applications:** Every application to locate Wireless Communication Facility in the right of way shall be classified by the following types:
- q. Minor modification that:**

  - i. Involves collocation, removal or replacement of transmission equipment on an existing wireless tower, utility pole or base station.
  - ii. Does not substantially change the physical dimension (width, height, and depth) of the existing wireless tower, pole-mounted equipment or base station.
- r. Major modification that:**

  - i. Involves collocation, removal or replacement of transmission equipment on an existing wireless tower or base station; and
  - ii. Substantially changes the physical dimension (width, height, and depth) of the existing wireless tower or base station or does not qualify for approval pursuant to 47 U.S.C. § 1455(a) for any lawful reason.
- s. New transmission equipment on an existing or new utility pole:**

  - i. Siting new transmission equipment on a Potential Support Structure in the right of way that does not already support transmission equipment; or
  - ii. Siting a new wireless communication facility on a new pole or other support structure in the right of way.
- 2. Minor Modifications:** Minor modifications are additions or changes to previously approved facilities and covered under 47 U.S.C. § 1455(a), which mandates approval for certain applications that do not propose a substantial change to the underlying facility. Federal regulations provide specific definitions and criteria for approval or denial. The provisions in this section are intended to assist applicants and application reviewers to determine whether an application qualifies for approval as a minor modification.

  - a. Approval and Denials**

    - i. **Criteria for Approval.** Staff may approve an application for a minor modification when it finds that the proposed project:

      - 1. Involves collocation, removal or replacement of transmission equipment on an existing wireless tower or base station; and
      - 2. Does not substantially change the physical dimensions of the existing wireless tower or base station.
  - b. Criteria for Denial.** Notwithstanding any other provisions in this Ordinance, and

consistent with all applicable federal laws and regulations, the application may be denied for a minor modification when it finds that the proposed project:

- i. Does not satisfy the criteria for approval;
- ii. Violates any legally enforceable standard or permit condition reasonably related to public health and safety; or
- iii. Involves the replacement of the entire support structure, triggering other applicable standards.

## 1. Major Modifications

- a. **General Design and Construction Standards.** To promote cleanly organized and streamlined facilities using the smallest and least intrusive means available to provide wireless services to the community, wireless facilities in the public right-of-way must comply with all applicable provisions in this section. In the event that any other law, regulation or code requires any more restrictive structural design and/or construction requirements, the most restrictive requirement will control.
- b. **Collocation.** Collocations between two separate wireless service providers on the same support structure is encouraged whenever feasible and safe.
- c. **Antennas on Existing or Replaced Utility Poles.** The antenna(s) associated with installation on existing or replaced utility poles must be located within the communication zone and have concealed cable connections, antenna mount and other hardware. The maximum dimensions for panel style antennas shall be 30” high and 12” wide. The maximum dimensions for canister style antennas shall be 30” high and 16” in diameter.
- d. **Antennas on New Stand Alone Poles without Power or other Utility Lines.** The antenna(s) associated with installation on new poles that are not replacing utility poles may have antennas located on top of the pole, provided there are no electrical lines located on the poles. These antennas must have concealed cable connections, antenna mount and other hardware. The maximum dimension shall be 48” high and 18” wide.
- e. **Equipment Mounting on Existing or Replaced Utility Poles.** All pole-mounted equipment must be installed as flush to the pole as possible, using stainless steel banding straps. Through-bolting or use of lag bolts is prohibited. All pole mounted equipment shall be located as close together and if possible on the same side of the pole. Standard color for all equipment shall be grey but other colors may be required when installing on a decorative pole.
- f. **Pole-Mounted Equipment Cages or Equipment Shrouds.** When pole-mounted equipment is either permitted or required, all equipment other than the antenna(s), electric meter and disconnect switch must be concealed within an equipment cage. Equipment cages may not extend more than 24 inches from the face of the pole. The equipment cage must be non-reflective and be colored gray or in a color matching the existing pole. Equipment cages should be mounted flush to the pole. All pole-mounted equipment must be installed as flush to the pole as possible. Any standoff mount for the equipment cage may not exceed 4 inches.
- g. **Undergrounded Equipment Vaults.** Pole-mounted equipment in self-contained cages is permitted, but equipment in an environmentally controlled underground vault may be required in some areas.
- h. **Ground-Mounted Equipment.** New ground-mounted equipment is not permitted, unless the applicant shows clear and convincing evidence that the equipment cannot be feasibly installed as a pole-mounted installation, in an environmentally controlled underground vault, or within an existing street feature (such as a bus stop shelter) for a valid technical reason. Increased costs alone shall be presumed to be insufficient. In the event that ground-mounted equipment is used, the applicant must conform to the following requirements:
  - i. **Self-Contained Cabinet or Shroud.** The equipment shroud or cabinet must contain all the equipment associated with the facility other than the antenna. All cables and conduits associated with the equipment must be concealed from view, routed directly

through the tapered metal pole (with the exception of Utility Board power poles) and undergrounded between the pole and the ground-mounted cabinet.

- j. **Concealment.** The Ground-Mounted Equipment shall incorporate concealment elements into the proposed design. Concealment may include, but shall not be limited to, public art displayed on the cabinet, strategic placement in less obtrusive locations and placement within existing or replacement street furniture.
- k. **Ambient Noise Suppression.** The applicant is required to incorporate ambient noise suppression measures and/or required to place the equipment in locations less likely to impact adjacent residences or businesses to ensure compliance with all applicable noise regulations.
- l. **Utility Lines.** Service lines must be undergrounded whenever feasible to avoid additional overhead lines. For metal poles, undergrounded cables and wires must transition directly into the pole base without any external junction box.
- m. **Electric Meter.** Each wireless communication facility must be individually metered. Multiple operators on a shared pole must have their own meter. Site operators shall use the smallest and least intrusive electric meter available.

Whenever permitted by the electric service provider, the electric meter base should be painted to match the pole.
- n. **Telephone/Fiber Optic Utilities.** Cabinets for telephone and/or fiber optic utilities may not extend more than 10 inches from the face of the pole, and must be painted, wrapped or otherwise colored to match the pole.
- o. **Spools and Coils.** To reduce clutter and deter vandalism, excess fiber optic or coaxial cables for wireless communication facilities shall not be spooled, coiled or otherwise stored on the pole except within the approved enclosure such as a cage or cabinet.
- p. **Underground Conduit.** All underground conduit placed behind the curb face and underneath the sidewalk must be SCH 80 PVC encased in concrete. All underground conduit must be Rigid Conduit when placed: (1) underneath driveway aprons, (2) within tree wells or (3) in front of the curb face and beneath the street.
- q. **Above-Ground Conduit.** On wood poles, all above-ground wires, cables and connections shall be encased in the smallest section or smallest diameter PVC channel, conduit, u-guard, or shroud feasible, with a maximum dimension of 4” diameter, and painted to match the pole.
- r. **Ground Rods.** All ground rods shall comply with current ANSI/TIA 222 and other applicable standards. If attaching to existing utility poles, wireless communication facilities shall be bonded (connected) to the existing pole ground or as required by the utility.
- s. **Lights.** Unless otherwise required for compliance with FAA or FCC regulations, the facility shall not include any permanently installed lights. Any lights associated with the electronic equipment shall be appropriately shielded from public view. The provisions in this subsection shall not be interpreted to prohibit installations on streetlights or the installation of luminaires on new poles when required.
- t. **Generally Applicable Health and Safety Regulations.** All facilities shall be designed, constructed, operated and maintained in compliance with all generally applicable health and safety regulations, including without limitation all applicable regulations for human exposure to RF emissions.

## 2. New and Replacement Poles or Structures

- a. **General Restrictions on New Wood PSS installations.** In all locations, the City reserves the right to require a metal PSS rather than a wood PSS based on the built and/or natural environmental character of the proposed site location as found in the Aesthetic Plan.
- b. **Overall Height.** The heights of a PSS should be consistent with other poles in the vicinity, the built environment, the neighborhood character, the overall site

appearance and the purposes in these standards. In no case shall a PSS installation exceed forty (40) feet in height in zoning districts allowing residential uses, or where applicable, the lesser of either, the maximum building height in the associated zoning district, or no more than forty (50) feet in zoning districts that disallow residential uses.

- c. **Pole Diameter.** Pole diameter shall be consistent with the surrounding poles. The applicant shall consider other poles in vicinity, the built environment, the neighborhood character, the overall site appearance and the purposes in these Guidelines.
- d. **Wood Pole Footings and Foundations.** All new wood poles, if permitted, must be direct buried to a depth determined, stamped, sealed and signed by a professional engineer licensed and registered by the State of Tennessee, and subject to review and approval.
- e. **Tapered Metal Pole Footings and Foundations.** All new tapered metal poles must be supported with a reinforced concrete pier designed, stamped, sealed and signed by a professional engineer licensed and registered by the State of Tennessee, and subject to review and approval.
- f. **Tapered Metal Pole Material.** All tapered metal poles must be constructed from hot-dip galvanized steel or other corrosion-resistant material and finished in accordance with these Guidelines to avoid rust stains on adjacent sidewalks, buildings or other improvements.
- g. **Lighting; Banners.** The applicant may be required to install functional streetlights and/or banner brackets if technically feasible when it is determined that such additions will enhance the overall appearance and usefulness of the proposed facility.
- h. **Signage.** Signage and labeling on poles and equipment should be limited only to what is required by FCC and OSHA. In addition, site node information (pole address, node identification number, and emergency contact information) may be included.
- i. **Damage of Equipment.** Upon notification, the wireless communication facility provider must rectify any aesthetic damage to their equipment within 30 days. Any damage that concerns safety must be addressed immediately.

### 3. Installations on Existing Poles and Other Potential Support Structures

- a. **General.** The standards encourage applicants to consider existing poles and other potential support structures prior to any new pole to reduce congestion in the public right-of-way. All generally applicable design, construction and location standards will be considered when reviewing applications for new facilities installed on existing poles or other potential support structures in the public right-of-way.
- b. **Privately-Owned Structures.** For a privately-owned structure in the public right-of-way onto which an applicant proposes to attach a wireless communications facility, if the owner of the structure requires more restrictive standards than those contained in these Guidelines, the more restrictive standards shall control. If any portion of a privately-owned structure is on private property, the applicant must first obtain all applicable zoning and building permits prior to submittal.
- c. **City Owned Structures.** The City, in its proprietary capacity, retains sole and absolute discretion over whether and on what terms it may allow wireless facilities on its poles and other facilities in the public right-of-way notwithstanding conflicting design provisions set forth in these Guidelines. Applicants may not submit any applications in connection with City-owned poles or other facilities without a valid and fully executed agreement to use the specific pole or other facility. The City shall not authorize any attachments to City-owned infrastructure that negatively impacts the structural integrity of the support structure.
  - i. **Independent Power Source.** A Wireless Communications Facility on a City-owned Potential Support Structure may not use the same power source that provides power for the original purpose of the Potential Support Structure.

- ii. **City-Owned Traffic Control Signal Poles.** The City prohibits wireless facilities (and all other non-traffic control facilities) on City-owned traffic control signal poles.
- 4. **Additional Design and Construction Standards for Major Modifications.** In addition to all applicable General Design and Construction Standards, all major modifications to eligible facilities are to comply with the following requirements:
  - a. **Coordination with Original Facility Design.** The applicant must design the proposed installation in a manner that mimics the design and any concealment elements of the existing facility. To the extent feasible, new facilities should utilize capacity in existing equipment cages or cabinets and existing conduits or risers.
  - b. **Antennas.** The guidelines discourage side-mounted antennas that overhang the roadway, but may permit side-mounted antennas that overhang the sidewalk provided that the antenna complies with all applicable setbacks and vertical clearance requirements.
  - c. **Structural Integrity.** Any additional equipment must not negatively impact the structural integrity of the support structure and must comply with all applicable local, state and federal codes and regulations.
- 5. **Minor Technical Exceptions.** In some circumstances strict compliance with these Guidelines may result in undesirable aesthetic outcomes, and minor deviations may be granted when the need for such deviation arises from circumstances outside the applicant's control. For example, if an applicant proposes to construct a standard configuration facility in an office district, but required a pole with a slightly wider base due to poor foundation conditions, the City may grant a technical exception rather than subjecting an otherwise preferred design to a standard review. In contrast, if an applicant proposed a 50-foot tall standard configuration facility in an office district because it desired additional service area, the City would apply standard review because the need for additional height arises from the applicant's preferences. This section describes the required findings for a minor technical exception.

**Required Findings.** The City may, in its sole discretion, grant a minor technical exception from strict compliance with the design and location guidelines when:

- a. The applicant has requested an exception in writing;
  - b. The proposed facility would normally qualify for minor review but for the need for a minor technical exception;
  - c. The need for the exception arises from an external factor outside the applicant's control that impacts public health, safety or welfare, including without limitation soil compaction, existing congestion or clutter with in the right-of-way or other location-specific condition or phenomenon.
  - d. The proposed deviation from the applicable requirement is less than 10% larger than the generally applicable standard; and
  - e. The granting of a minor technical exception would not create any obvious hazard or unreasonable obstruction in the public right-of- way.
- 6. **Application Requirements and Fees for Small Wireless Facilities.** The City shall require a completed application in adherence to the following requirements:
  - a. An applicant shall include up to twenty (20) Small Wireless Facilities in a single application.
    - i. The application fee shall be one hundred (\$100) dollars for each of the first five (5) Small Wireless Facilities in a single application.
    - ii. An additional two hundred (\$200) dollar fee for the first application an applicant files following the effective date of this Ordinance.
    - iii. Beginning January 1, 2020 and every five (5) year interval thereafter, the application fee will be raised ten (10) percent more

than previously required.

- iv. The annual rate for colocation of a Small Wireless Facility on a City-owned PSS shall be one hundred (\$100) dollars per installation.
- b. Upon the submittal of an application to the City Building Department, Staff shall determine whether the application is complete and notify the applicant of any deficiencies relating to one or more Small Wireless Facilities included in an application within thirty (30) days, and if there is a need to conduct a conference with applicant to clarify or correct:
  - i. Safety considerations not adequately addressed by the application or regarding which the local authority proposes additional safety- related alterations to the design;
  - ii. Potential of conflict with another applicant's application for the same or a nearby location;
  - iii. Impact of planned construction or other public works projects at or near the location identified by the application;
  - iv. Alternative design options that may enable colocation on existing PSS instead of deployment of new PSS or opportunities and potential benefits of alternatives design that would incorporate other features or elements of benefit to the City.
- c. The City shall approve or deny application for deployment or colocation of Small Wireless Facilities within sixty (60) days unless circumstances allowing extension to seventy-five (75) days as allowed by TCA § 13-24- 409.
- d. A preliminary site plan shall be required with a diagram or engineering drawing depicting the design for installation of the Small Wireless Facility with sufficient detail for Staff to determine that the design of the proposed installation and any new PSS or any modification of a PSS is consistent with all generally applicable aesthetic, design, and safety requirements, including those specified by the Manual on Uniform Traffic Control Devices. Such a site plan shall include:
  - i. The location of the site, including the latitudinal and longitudinal coordinates of the specific location of the site;
  - ii. Identification of any third party upon whose PSS the applicant intends to collocate and certification by the applicant that it has obtained approval from the third party;
  - iii. The applicant's identifying information and the identifying information of the owner of the small wireless facility and certification by the applicant or the owner that such person agrees to pay applicable fees and rates, repair damage, and comply with all generally applicable ROW requirements for deployment of any associated infrastructure that is not a Small Wireless Facility and the contact information for the party that will respond in the event of an emergency related to the small wireless facility;
  - iv. The applicant's certification of compliance with surety bond, insurance, or indemnification requirements; rules requiring maintenance of infrastructure deployed in ROW; rule requiring relocation or timely removal of infrastructure in ROW no longer utilized; and any rules requiring relocation or repair procedures for infrastructure in ROW under emergency conditions, if any, that the local authority imposes on a general and non-discriminatory basis
    - upon entities that are entitled to deploy infrastructure in the ROW;
    - and
  - v. The applicant's certification that the proposed site plan and design plans meet or exceed all applicable engineering, materials, electrical, and safety standards, including all standards related to the



structural integrity and weight bearing capacity of the PSS and small wireless facility. Those standards relevant to engineering must be certified by a licensed professional engineer.

- e. Timeframe for deployment. If an applicant does not complete deployment within nine (9) months of receiving approval for an application, the City shall require the applicant to complete a new application and pay an additional application fee, unless both parties, by mutual agreement agree to an extension, or because the deployment is delayed because of a lack of commercial power or communication transport facilities to the site.

Every section, sentence, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

This Ordinance shall take effect from and after the date of its passage upon second and final reading, the welfare of the citizens of the City of Red Bank requiring it.

\_\_\_\_\_  
MAYOR OF RED BANK, TENNESSEE

ATTEST:

\_\_\_\_\_  
CITY RECORDER

March 19, 2019  
\_\_\_\_\_  
PASSED ON FIRST READING

April 2, 2019  
\_\_\_\_\_  
PASSED ON SECOND AND FINAL READING

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

ORDINANCE NO.19-1149

AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE,  
AMENDING THE ZONING MAP TO REZONE FROM C-1 COMMERCIAL TO C-3  
NEIGHBORHOOD COMMERCIAL THE PROPERTIES FRONTING ON BOTH SIDES OF  
DAYTON BOULEVARD FROM TAX MAP 109I GROUP C PARCEL 010 AT 4301  
DAYTON BOULEVARD NORTH TO AND INCLUDING TAX MAP 109B GROUP D  
PARCEL 004 AT AN UNADDRESSED PROPERTY ON DAYTON BOULEVARD AND  
FROM TAX MAP 109J GROUP A PARCEL 027 AT 4300 DAYTON BOULEVARD NORTH  
TO AND INCLUDING TAX MAP 109B GROUP L PARCEL 001 AT 1 PAULMAR DRIVE.

WHEREAS *Tennessee Code Annotated* (TCA) § 13-7-201 allows municipal governments the authority to regulate land use through zoning of properties within its city limits,

WHEREAS the Red Bank municipal planning commission has certified and the City Commission has by Ordinance adopted zoning districts as provided for in TCA § 13-7-202 et. seq.; and

WHEREAS TCA §13-7-204 authorizes amendments to the zoning map of the City of Red Bank and provides for that process; and

WHEREAS the rezoning of the subject properties from the presently designated C-1 zoning district to the C-3 zoning district conforms to the goals of the Red Bank 2020 Land Use Plan; and

WHEREAS the City of Red Bank has submitted an application to rezone the subject properties from C-1 Commercial to C-3 Commercial; and

WHEREAS the descriptions of said properties are more particularly and graphically described and detailed on Exhibit A; by tabular reference to each of the impacted map parcel numbers, owner references and other identifying information.

WHEREAS the owner of each of the identified parcels as well as all property owners of properties within the ordinance specified distance of each and every of the identified parcels has been notified via certified and regular mail of the intended re-zoning of the referenced parcels and of the hereafter referenced meetings and public hearings of the Red Bank Planning Commission and of the Red Bank City Commission at which such contemplated actions scheduled or are scheduled to be considered.

WHEREAS all of the affected properties have been posted with NOTICE of the referenced zoning amendments to be considered and of the public hearings held or to be held.

WHEREAS the Red Bank Planning Commission provided an opportunity for citizens to submit comments in favor of or against the proposed rezoning at an advertised public hearing held in conjunction with its regular meeting on February 21<sup>st</sup>, 2019; and

WHEREAS, the Red Bank Planning Commission found that the rezoning would not have a negative effect on surrounding property owners and recommends approving the ordinance; and

WHEREAS the City Commission provided an opportunity submit comments in favor of or against the proposed rezoning at an advertised public hearing during its regularly scheduled City Commission Meeting on March 19, 2019, prior to the final reading of this ordinance; and

WHEREAS the City Commission finds that the proposed rezoning of the listed properties from C-1 to C-3 afforded by the rezoning request would not have a negative impact on adjacent properties and is consistent with the Red Bank 2020 Land Use Plan

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RED BANK, TENNESSEE, AS FOLLOWS:

Section 1. The Zoning Ordinances and Zoning Maps of this City are hereby amended by rezoning from C-1 Commercial to C-3 Neighborhood Commercial the properties fronting on both

sides Dayton Boulevard from and including Tax Map 109I Group C Parcel 010 at 4301 Dayton Boulevard north to and including Tax Map 109B Group D Parcel 004 (ADD ADDRESS) and from and including Tax Map 109J Group A Parcel 027 at 4300 Dayton Boulevard north to and including Tax Map 109B Group L Parcel 001 at 1 Paulmar Drive as described by reference in Exhibit A and as shown on the map which is Exhibit B, both of which Exhibits are attached hereto and incorporated herein by reference.

Section 2. Upon the adoption of this Ordinance, the Zoning maps of the City shall be amended and changed to reflect this rezoning.

Section 3. That every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not affect or impair any other section, sentence, clause, or phrase.

Section 4. That this ordinance shall take effect from and after the date of its final passage, the public welfare of the City of Red Bank, Tennessee requiring it.

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MAYOR

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CITY RECORDER

March 19, 2019  
PASSED ON FIRST READING

April 2, 2019  
PASSED ON SECOND READING

APPROVED AS TO FORM:

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CITY ATTORNEY

**ORDINANCE NO. 19-1150**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO AMEND FY 2018 OPERATING BUDGET TO APPROPRIATE DONATION FUNDING FROM THE RED BANK AND SODDY DAISY CHARITABLE FOUNDATION IN THE AMOUNT OF \$23,200.00 AND TO ACCEPT CONDITIONS OF THE GRANT**

**WHEREAS**, the City of Red Bank received a donation of \$23,200.00 from the Red Bank Soddy Daisy Foundation to be used towards the purchase of Christmas / Holiday decorations for the City; and

**WHEREAS**, as a condition of the grant the Red Bank and Soddy Daisy Foundation has stipulated the following requirements on the use of the donation funds:

- (a) The funds are to be used for the sole and exclusive purpose of partially funding the purchase of Christmas / Holiday decorations
- (b) City agrees to keep the funds segregated in a separate interest bearing account established solely for the stated purposes
- (c) City agrees to affirm to the Foundation, not less frequently than annually, that the funds continue to be held or are being expended or have been expended for the stated purpose and for no other

**NOW, THEREFORE, BE IT ORDAINED** by the Commission of the City of Red Bank, Tennessee, as follows:

SECTION 1: That the City accepts the above mentioned conditions set forth by The Red Bank and Soddy Daisy Charitable Foundation.

SECTION 2: That the Fiscal Year 2019 Operating Budget be and is hereby amended to include the donation funding as provided:

**REVENUES**

Donated Revenue	<u>\$23,200.00</u>
<b>TOTAL REVENUES</b>	<b><u>\$23,200.00</u></b>

**EXPENDITURES**

Public Works - Supplies	<u>\$23,200.00</u>
<b>TOTAL EXPENDITURES</b>	<b><u>\$23,200.00</u></b>

SECTION 3: This Ordinance shall take effect upon the date of its passage upon second and final reading the welfare of the citizens of the City of Red Bank requiring it.

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Mayor

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City Recorder

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March 19, 2019

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Passed on First Reading

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April 2, 2019

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Passed on Second and Final Reading

Approved as to Form:

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City Attorney

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## **ORDINANCE NO. 19-1151**

### **AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE TO AMEND ORDINANCE NO. 15-1020, THE ZONING ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, CODIFIED AT RED BANK CITY CODE TITLE 14, CHAPTER 5 SECTION 14-501, SUB-SECTION (P), THEREOF, PERMITTED USES, IN ORDER TO CLARIFY CERTAIN SEGMENTS THEREOF**

WHEREAS, City Administration based on experience and input from the Commissioners and Members of the Red Bank Planning Commission, has identified the need to update and revise the existing Red Bank Zoning Ordinance relating to use separations distances in the L-1 Light Manufacturing Zone; and

WHEREAS, the City Commission, the Planning Commission, and as aided by the Southeast Tennessee Development District, wishes to promote economic revitalization through diversification of land uses in certain areas and by the reasonable and orderly regulation of Self-Storage Facilities; and

WHEREAS, the Planning Commission provided an opportunity for citizens to speak in favor of or against this ordinance during a public and advertised Public Hearing during its regularly scheduled meeting on March 21, 2019; and

WHEREAS, the Planning Commission has made recommendation to the City Commission that this ordinance should be approved; and

WHEREAS, the Red Bank City Commission provided an opportunity for citizen comments in favor of or against the ordinance at a public and advertised Public Hearing during its regularly scheduled Commission Meeting on April 2, 2019, prior to final reading.

NOW THEREFORE, BE IT ORDAINED by the City Commission of the City of Red Bank, Tennessee, as follows:

SECTION 1. That Title 15, Chapter 5, Section 14-501, Permitted Uses, subsection (P) thereof, be deleted in its entirety and the following be inserted in its place and stead:

(P) Warehouse and trucking terminals, outdoor storage and display, self-storage or mini-warehouse facilities provided that no self-storage or mini-storage establishment shall be located within fifteen hundred (1,500) feet of any other self-storage or mini-warehouse facility and no part thereof shall be located within fifty (50) feet of any residentially zoned property. Further any outdoor storage facility which abuts any parcel zoned other than L-1 shall also be screened pursuant to the screening requirements listed in Chapter XI of the Zoning Ordinance as to each portion thereof which abuts any property zoned other than L-1. Distances requirements shall be measured from nearest property line to nearest property line. It shall be the responsibility of the owner / applicant to present a survey from a registered Tennessee Land Surveyor verifying such distance requirements.

SECTION 2. Every section, sentence, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

SECTION 3. This Ordinance shall take effect upon the date of its passage upon second and final reading, the welfare of the citizens of the City of Red Bank requiring it.

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MAYOR

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CITY RECORDER

April 2, 2019  
PASSED ON FIRST READING

April 16, 2019  
PASSED ON SECOND AND FINAL READING

APPROVED AS TO FORM:

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CITY ATTORNEY

## ORDINANCE NO. 19-1152

AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE TO PROVIDE FOR A COMPREHENSIVE REVISION OF THE RED BANK ORDINANCES GOVERNING OWNERSHIP, CONTROL, AND REGULATION OF ANIMALS AND DOMESTICATED FOWL WITHIN THE CITY OF RED BANK TO BE CODIFIED AT RED BANK CITY CODE TITLE 10, CHAPTERS 1 THROUGH 10, INCLUSIVE, AND ENTITLED “RED BANK ANIMAL AND FOWL CONTROL ORDINANCE”

WHEREAS, the City Commission finds that present regulatory provisions of and with respect to keeping, controlling and monitoring domesticated animals within the City of Red Bank is outdated, cumbersome, , problematic and in need of revised, rules and regulations; and

WHEREAS, the City Commission finds that it is necessary and appropriate to revise, amend and enact a comprehensive set of rules and regulations of and with respect to keeping and monitoring domesticated animals and the exclusion of animals other than expressly permitted by the Ordinance within the City of Red Bank and to thereby rescind and repeal previously enacted and inconsistent ordinances addressing the same topic.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Red Bank as follows:

- (A) Title 10, Chapter 1, Sections 10-101 through 10-111, inclusive, is/are repealed.
- (B) Title 10, Chapter 2, Sections 10-201 through 10-215, inclusive, is/are repealed.
- (C) The Red Bank Animal and Fowl Control Ordinance is hereby enacted to provide as follows:

### ARTICLE I. ANIMAL SERVICES DIVISION

Section 10-1. Animal Care; Agent of the City of Red Bank duties; powers.

(a) Animal Care The agent together with the Red Bank Police Department as appropriate or necessary shall be authorized to provide animal services for the City of Red Bank.

(b) These contracted services shall include the following:

- (1) Providing essential animal services to the residents of Red Bank through the enforcement of animal-related codes as stated in the Tennessee Code and City Code;
- (2) Licensing of animals;
- (3) Animal safety and educational programs;
- (4) An attempt to reach resolution of animal-related problems by



education or advice;

(5) Emergency and rescue services for animals;

(6) Cooperation with the county health director and assisting in the enforcement of the laws of the City and state with regard to companion animals and especially with regard to the vaccination of dogs and cats against rabies and the confinement or leashing of vicious animals;

(7) Investigation of cruelty, neglect or abuse of companion animals and

(8) Maintaining an animal shelter in accordance with the provisions of this Chapter that will include, but not be limited to, sheltering of animals impounded under this Chapter, licensing of animals, quarantine of rabies-suspect animals, reduction of stray and unwanted animal population through spay and neuter programs, community education with regard to pet overpopulation, methods of ownership identification and disposition of impounded animals by adoption, redemption, or humane euthanasia. Animals generally, T.C.A. §§44-17-101, et seq.

(c) Any animal services officer or police officer of the City shall have the power and duty to protect the animals taken into custody, whether in transit or at the Agents Animal Center. Any animal services officer shall have the authority and duty to rescue any animal that appears to be suffering from a serious medical emergency and/or appears to be unable to physically remove itself from a situation that restricts its movement. If a rescued animal is found to have reasonable proof of ownership such as an implanted microchip, tattoo or collar with identification, it shall be provided with immediate veterinary care if the officer deems such care to be necessary in an attempt to prevent, physical pain, suffering, disability or death of the animal. The animal's owner shall be responsible for all expenses incurred for the rescue and subsequent treatment of the animal. If the animal has no detectable identification or is found abandoned or not properly cared for, the Agents Animal Center director, a licensed veterinarian or two reputable, experienced employees in the animal welfare field may be called to view the animal and give written certification of the animal's condition. If it is determined that the animal is diseased, significantly injured, suffering, neonatal, feral or highly aggressive, and due to such condition is an improbable candidate for adoption, the animal can be immediately euthanized. In no event shall the determination as to disposition of the animal be delayed beyond forty-eight (48) hours after it is determined that said animal should, for humane reasons, be immediately destroyed by humane euthanasia.

#### Section 10-2. Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

*“Abandon”* means forsake, desert or absolutely give up an animal previously under the custody or possession of a person without having secured another owner or custodian or by failing to provide one or more of the elements of adequate care for a period of twenty- four (24) or more consecutive hours.

*“Adequate care”* or *“care”* means the reasonable practice of good animal husbandry, handling, production, management, confinement, feeding, watering, protection, shelter, transportation, treatment and, when necessary, euthanasia, appropriate for the age, species, condition, size and type of the animal and the provision of veterinary care when needed to prevent suffering, disease, or the impairment of health.

*“Adequate exercise”* or *“exercise”* means the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size and condition of the animal.

*“Adequate feed”* means the access to and the provision of food which is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal without duress or competition; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.

*“Adequate shelter”* means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; and for dogs and cats, provide a solid surface, resting platform, pad, floor mat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid, or slat floors (i) permit the animals’ feet to pass through the openings, (ii) sag under the animals’ weight, or (iii) otherwise do not protect the animals’ feet or toes from injury are not adequate shelter.

*“Adequate space”* means sufficient space to allow each animal to (i) easily stand sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal and (ii) interact safely with other animals in the enclosure. When an animal is tethered, “adequate space” means a tether that permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; and is at least three times the length of the animal, as measured from the tip of the nose to the base of the tail, except when the animal is being walked on a leash or is attached by a tether to a lead line. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to accepted veterinary standards for the species is considered provision of adequate space. Provided, however, that no animal shall be tethered for more than twelve (12) hours in a twenty-

four (24) hour period.

*“Adequate veterinary care”* means to provide medical care to alleviate suffering, prevent disease transmission, maintain health, and provide available care to prevent diseases through accepted practice by the American Veterinary Medical Association for the age, species, condition, size, and type of each animal.

*“Adequate water”* means provision of and access to clean, fresh, potable water of a drinkable temperature which is provided in a suitable manner, in sufficient volume, and at suitable intervals, but at least once every 8 hours, to maintain normal hydration for the age, species, condition, size, and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species; and is provided in clean, durable receptacles which are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternate source of hydration consistent with generally accepted husbandry practices.

*“Adoption”* means the transfer of ownership of a dog or cat from a releasing agency to an individual.

*“Agricultural animals”* means all livestock and poultry.

*“Agent”* means that person or persons responsible for the Animal Control Services within the City of Red Bank; Agent is synonymous in most contexts herein with “Animal Services Officer” (ASO) and with “Animal Center”

*“Altered”* means a surgical procedure performed by a licensed veterinarian that renders a dog or cat permanently incapable of reproducing.

*“Ambient temperature”* means the temperature surrounding the animal.

*“Animal”* means a living organism characterized by voluntary movement except human beings and plants.

*“Animal act”* means any performance of animals where such animals are trained to perform some behavior or action or are part of a show or performance.

*“Animal Center”* means any contractor or Agent with which the City contracts to perform the tasks, duties, responsibilities or actions provided for in this Red Bank Animal and Fowl Control Ordinance.

*“Animal Hoarder”* means a person who possesses a large number of animals and (i) fails to or is unable to provide adequate care as defined in this chapter or (ii) keeps animals in severely

overcrowded conditions where they are unable to be in a state of good health or (iii) displays the inability to recognize or understand the nature of, or has the reckless disregard for the conditions of the animals or (iv) is living in unsanitary, unhealthful or potentially dangerous conditions due to the inability to provide adequate care as defined in this chapter.

*“Animal Services Officer”* or *“ASO”* means a person legally sworn and appointed as an animal services officer that is authorized by the City Manager and or as may be employed by the Animal Center, and or by the City’s *“Agent”* to carry out the duties imposed by this Chapter and or by state law.

*“Animal Shelter”* means any premises designated by the City for the purpose of impounding and caring for all animals found at large or otherwise subject to impoundment in accordance with the provisions of this chapter.

*“At large”* means an animal not contained behind an adequate fence or within an adequate enclosure or under the control of a person physically capable of restraining the animal, or an animal not controlled by a leash or tether no more than six (6) feet in length and appropriate for the size, age and weight of the animal

*“Attack”* means attack by an animal off its owner’s property in a vicious, terrorizing or threatening manner or in an apparent attitude of aggression; *“attack”* does not include any actions by an animal in defense of itself or its owner or keeper against aggression by a person or an animal.

*“Barking Dog”* - See Section 10-41, et seq., infra.

*“Breeder”* means anyone who either for the betterment of the chosen breed or for financial gain "sells, trades or offers to sell" a litter of dog or cats produced from a dog or cat that they do not intend to have spayed or neutered.

*“Cattery”* means any enclosure, premises, building structure, lot or area, in or on which eight (8) or more cats at least (3) months of age are kept, bred, harbored or maintained. The owner must apply for a cattery license and meet the standards of husbandry described in this chapter. Space requirements, sanitation and proper vaccinations and veterinary care are required by this section. Both kennels and catteries will be subject to at least annual inspection by the Agents Animal Center with emphasis placed on sanitation, vaccination records, absence of disease and humane operation.

*“City Manager”* means the then serving and duly appointed City Manager and/or, in context, his or her duly authorized designee.

*“Collar”* means a well fitted device appropriate to the age and size of the animal, constructed of nylon, leather, or similar material, and attached to the animal’s neck in such a way as to avert trauma or injury to the animal.

“*Companion animal*” means any domestic or feral dog, domestic or feral cat, guinea pig, small domesticated mammal, rabbit not raised for human food or fiber, miniature African pig, pot bellied pig, exotic or aquatic animal, amphibian, reptile, exotic bird, or any feral animal or any animal under the care, custody or ownership of a person or any animal which is bought, sold traded or bartered by any person. Agricultural animals, game species, or any animal regulated under federal law as research animals shall not be considered companion animals for the purposes of this chapter.

“*Curbside sale*” means any attempt to sell barter, trade or adopt any companion animal on a public or private street, parking lot, or location.

“*Dangerous dog*” means any dog that, according to the records of an appropriate authority:

- (1) Inflicts a severe injury on a human being without provocation on public or private property; or
- (2) Bites, attacks, scratches or endangers the safety of a human being without provocation after the dog has been classified as a potentially dangerous dog.

A dog that inflicts an injury upon a person when the dog is being used by a law enforcement officer to carry out the law enforcement officer’s official duties shall not be considered a dangerous dog or potentially dangerous dog for the purposes of this chapter.

A dog shall not be a dangerous dog or a potentially dangerous dog if the injury inflicted by the dog was sustained by a person who at the time, was committing a willful trespass or other tort, or was physically tormenting the dog, or was committing or attempting to commit a crime.

“*Dog*” means any member of the animal species *canis familiar’s* or any animal which is a crossbreed of any animal that is a member of the *canis familiar’s* species, not including, wolf/dog crossbreeds and wolf hybrids.

“*Dealer*” means any person who in the regular course of business for compensation or profit buys, sells, transfers, exchanges, or barter companion animals. Any person who transports companion animals in the regular course of business as a common carrier shall not be considered a dealer.

“*Direct and immediate threat*” means any clear and imminent danger to the health, safety, or life of an animal or person as would be perceived by a reasonable person.

“*Domestic animal*” means any animal that may be legally possessed by a person and is commonly kept as a pet in or around a residence, outbuildings or business.

*"Dump"* means to knowingly abandon, desert, forsake, or absolutely give up without having secured another owner or custodian; any dog, cat, or other companion animal in any public place including the right-of-way of any public highway, road or street or on the property of another including but not limited to an animal shelter, veterinary hospital or animal welfare facility.

*"Emergency veterinary treatment"* means veterinary treatment to stabilize a life-threatening condition, alleviate suffering, prevent further disease transmission, or prevent further disease progression.

*"Euthanasia"* means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent that causes painless loss of consciousness, and death during such loss of consciousness.

*"Foster care provider"* means an individual who provides care or rehabilitation for companion animals through an affiliation with a pound, animal shelter, or other releasing agency.

*"Foster home"* means a private residential dwelling and its surrounding grounds at which site through an affiliation with a pound, animal shelter, or other releasing agency care or rehabilitation is provided for companion animals.

*"Groomer"* means any person who, for a fee, cleans, trims, brushes, makes neat, manicures, or treats for external parasites any animal.

*"Grooming shop"* means a commercial establishment where animals are bathed, clipped, plucked or otherwise groomed.

*"Guard dog"* means any member of the dog family (*canidae*) which has been trained or represented as a dog trained to protect commercial property or placed on commercial property for the purpose of protecting such property or persons on such property.

*"Guard dog owner"* means any person, firm or corporation, which employs a guard dog to protect commercial property from unauthorized intrusion; for purposes of this definition, "owner" includes legal owner and any person, firm or corporation who, through arrangement or contract, has secured the use of a guard dog to protect commercial property from unauthorized intrusion.

*"Guard dog purveyor"* means any person, firm or corporation supplying guard dogs to members of the public.

*"Guard dog trainer"* means any person, either as an individual or as an employee of a guard dog purveyor, whose prime function is the training of dogs as guard dogs.

*"Home-based rescue"* means any person that accepts: (i) more than twelve (12) companion animals; or (ii) more than nine (9) companion animals and more than three (3) unweaned litters of companion animals in a calendar year for the purpose of finding permanent adoptive homes for the companion animals and houses the companion animals in a private residential dwelling or uses a system of housing companion animals in private residential foster homes.

*"Impoundment"* means the placement of an animal in the custody of the Agents Animal Center.

*"Kennel"* means any premises wherein any person engages in the business of boarding, breeding, buying, hunting, training for a fee, or selling dogs or cats, except a facility operated by a humane society or a governmental agency or its authorized agents, for the purpose of impounding or caring for animals.

*"Licensed veterinarian"* means a person licensed to practice veterinary medicine.

*"Livestock"* means all equine as well as animals which are being raised primarily for use as food or fiber for human utilization or consumption including, but not limited to, cattle, sheep, swine (except pot bellied pigs), goats, and poultry.

*"Menacing fashion"* means that a dog would cause any person being chased or approached to reasonably believe that the dog will cause physical injury to that person.

*"Microchip"* means a passive electronic device that is injected into an animal by means of a pre-packaged sterilized implanting device for purposes of identification and/or recovery of animals by their owners.

*"Microchipping"* means the implanting of a passive electronic device that is injected into an animal by means of a pre-packaged sterilized implanting device for purposes of identification and/or recovery of animals by their owners.

*"Minor injury"* means an injury in which the victim suffers pain as a result of an attack by an animal but which does not produce any broken bone, bleeding or death on the part of the victim.

*"Mischievous animal"* means any companion animal that causes a public nuisance.

*"Neglect"* means any of the following:

- (1) Failing to sufficiently and properly care for an animal to the extent that the animal's health is jeopardized;

- (2) Failing to provide an animal with adequate living conditions as defined in this chapter (adequate feed, adequate water, adequate shelter, adequate space etc.);
- (3) Failing to provide adequate veterinary care;
- (4) Keeping any animal under conditions which increase the probability of the transmission of disease;
- (5) Failing to provide an adequate shelter for an animal;
- (6) Negligently allow any animal, including one who is aged, diseased, maimed, hopelessly sick, disabled, or not ambulatory to suffer unnecessary neglect, torture, or pain; or
- (7) Meeting the requirements of the definition of an Animal Hoarder.

*“Owner”* means any person, corporation, organization, group of persons or association that (i) has a property right in an animal; (ii) keeps or harbors animal; (iii) has an animal in his or her care or acts as a custodian of an animal for ten (10) or more consecutive days when the true owner of the animal is unknown to such person; or (iv) by agreement with or with permission of the true owner of the animal, has an animal in his or her care or acts as a caretaker or custodian of an animal. *“Owner”* does not include the City animal shelter, non-profit animal sheltering facility, rescue organization, feral cat caretakers, a veterinarian or an operator of a grooming shop, kennel or pet shop engaged in the regular practice of said business.

*“Person”* means any individual, partnership, corporation, organization, trade or professional association, firm, limited liability company, joint venture, association, trust, estate, or any other legal entity, and any officer, member, shareholder

*“Pet dealer”* means any person or organization, other than a shelter or registered rescue organization, who engages in the business of selling, buying, brokering, or bartering of animals, whether such animals are located in the City or just offered for sale, barter, broker, etc., in the City.

*“Pet Solid Waste”* excrement from the bowels of the pet

*“Potentially dangerous dog”* means any dog that without provocation bites, attacks, scratches, or endangers the safety of a human being on any public or private property; or any dog that attacks and kills, or severely injures another properly restrained companion animal while on private or public property.

*“Proof of ownership”* means documentation in support of a property right in an animal that includes, but is not limited to, veterinary records, rabies vaccination certificates, licenses, photographs, bills of sale, breed registries, written transfers of ownership, and verbal or written third-party verifications.



*“Properly cleaned”* means that carcasses, debris, food waste and excrement are removed from the primary enclosure with sufficient frequency to minimize the animals’ contact with these contaminants; the primary enclosure is sanitized with sufficient frequency to minimize odors and the hazard of disease; and the primary enclosure is cleaned so as to prevent the animals confined therein from being directly or indirectly sprayed with a stream of water, or directly or indirectly exposed to hazardous chemicals or disinfectants.

*“Proper disposal”* means placement in a designated waste receptacle, or other suitable container, and discarded in a refuse container which is regularly emptied by the municipality or some other refuse collector; or disposal into a system designed to convey domestic sewage for proper treatment and disposal.

*“Proper enclosure”* means a place in which a companion animal is securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the entry of children under the age of twelve and designed to prevent the companion animal from escaping. Such enclosure shall have secure sides and a secure top to prevent the companion animal from escaping and shall also provide protection for the companion animal from the elements. The enclosure shall be of suitable size for the companion animal.

*“Properly fitted”* collar means the animal has a collar that measures the circumference of a neck plus at least one inch.

*“Properly restrained”* means: (i) controlled by a competent person by means of a chain, leash, or other like device not to exceed six feet (6’) in length; (ii) secured within or upon a vehicle being driven or parked; or (iii) kept within a proper enclosure. Properly restrained in or upon a vehicle does not include restraint or confinement that would allow an animal to fall from or otherwise escape the confines of a vehicle or that would allow an animal to have access to persons outside the vehicle.

*“Provoke”* means to goad, inflame, instigate or stimulate an aggressive or defensive response on the part of an animal, but does not include any actions on the part of an individual that pertain to reasonable efforts of self-defense against an animal.

*“Public nuisance”* means any animal or group of animals that, by way of example and not of limitation, habitually:

- (1) Damage, soil or defile community or neighborhood private or public property;
- (2) interfere with the ordinary use and enjoyment of a person’s property;
- (3) turn over garbage containers or damage flower or vegetable gardens;
- (4) cause unsanitary or offensive conditions;

- (5) impede the safety of pedestrians, bicyclists, or motorists;
- (6) Meet the requirements of the definition of “barking dog”; or
- (7) Are allowed to remain an unaltered free roaming cat.

*"Reasonable period"* means a period of time not to exceed twelve (12) hours in a twenty-four (24) hour period.

*"Records of an appropriate authority"* means records of any state, county or city law enforcement agency; records of any county or city animal control agency; records of any county board of health or records of any federal, state or city court.

*"Releasing agency"* means an animal shelter, humane society, and animal welfare organization, society for the prevention of cruelty to animals, or other similar entity or rescue that releases companion animals for adoption.

*"Registered Rescue Organization"* means any person or organization, that is not acting for profit, and that rescues animals from a variety of sources and places them through adoption with new owners.

*"Relinquish"* means giving up all rights to said animal including future knowledge of the disposition of the animal.

*"Sanitary conditions"* means space free from health hazards including excessive animal waste, overcrowding of animals, or other conditions that endanger the animal's health. This definition does not include any condition resulting from a customary and reasonable practice pursuant to farming or animal husbandry.

*"Severe injury"* means any injury in which the victim suffers pain as a result of an attack by an animal and which includes any broken bone, bleeding, disfiguring lacerations requiring multiple sutures or cosmetic surgery, or death on the part of the victim.

*"Stray"* means any animal: (i) which is at large; (ii) which appears to be lost, unwanted or abandoned; or (iii) whose owner is unknown or not readily available.

*"State of good health"* means freedom from disease and illness and in a condition of proper body weight and temperature for the age and species of the animal, unless the animal is undergoing appropriate treatment.

*"Sterilize"* or *"sterilization"* means a surgical procedure performed by a licensed veterinarian that renders a dog or cat permanently incapable of reproducing.

*"Tether"* or *"tethering"* means the restraint and confinement of a dog by use of a restraint device.

*"Torture"* or *"torment"* means every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted.

*"Under control"* means an animal is securely confined in a fenced enclosure on the property of owner or keeper of the animal provided such an enclosure prevents the animal from leaving the property of the owner or keeper of the animal. An animal is also under control:

- (1) When the animal is located on the property of the owner or keeper of the animal and is secured by means of a leash or tether which prevents the animal from leaving the property of the owner or keeper of the animal.
- (2) When the animal is secured by means of a leash held by a person of suitable age and discretion.

*"Weaned"* means an animal is capable of and physiologically accustomed to ingestion of solid food or food customary for the adult of the species, and has ingested such food, without nursing, for a period of at least five (5) days.

#### Section 10-3. Seizure of at-large animals upon return to property.

An Animal Services officer or law enforcement officer may, upon viewing an animal at large and upon the animal's return to its legal property, impound such animal off its property for safe keeping if, in the opinion of the officer:

- (1) There is no way to ensure the animal's confinement to the property if the officer would leave it there to await the owner's return,
- (2) It could present a danger to the public, traffic or other animals if left until the owner returns.
- (3) The animal is not considered to be under control at the time of the impoundment, a notice of impound shall be posted in a place that would be visible from the public right-of-way or the front door or entrance, and it shall state the procedure to redeem such animal. This section does not authorize the entry into any building on the property nor the removal, without a search warrant or owner's written permission, of any animal from any building on the property.

#### Section 10-4. Interference with enforcement of chapter.

It shall be unlawful for any person to interfere with, hinder or molest officers of the Agents Animal Center, law enforcement officers, or veterinarians in the performance of any duty authorized by this Chapter or to seek to release any animal in the custody of the Agents Animal

Center except as otherwise specifically provided herein.

Section 10-5. Care of impounded animals.

Any Animal Shelter shall take proper care at all times of all animals held in custody and shall provide such animals with adequate food, water, care, and shelter.

Section 10-6. Redemption by owner.

The owner of any animal confined in the Agents Animal Center may, before the expiration of the legal holding period, redeem the same upon payment of the assessed fees and production of proof of ownership satisfactory to the Agents Animal Center of his or her ownership of the animal.

Section 10-7. Disposition of fees and proceeds of sales collected by Agents Animal Center.

All fees and the proceeds of the sale of animals shall be collected by the Animal Center unless otherwise provided by contract approved in advance by the City Commission.

Section 10-8. Animal Services Officer.

Upon written request by the Director of Agents Animal Center and upon background investigation by the Police Department, the City Manager may issue unto the officers named in such request commissions as special police officers of the City to enforce the provisions of this Chapter. The holders of such commissions shall have, possess and exercise every power granted by such commissions but such special policemen shall not be regular police officers of the City nor shall they be entitled to any benefits afforded regular police officers of the City.

Section 10-9. Enforcement of article; obstructing enforcement.

The Agents Animal Center and/or the Red Bank Police Department and/or the City Manager or his/her designee shall enforce the provisions of this Chapter and shall have the powers to issue citations for violations thereof. It shall be unlawful for any person to hinder, molest or interfere with Agents Animal Center personnel or such other persons authorized hereby in the performance of their duties hereunder.

Section 10-10. Setting humane animal traps and authority to receive trapped animals.

The Agents Animal Center or other person(s) authorized by Sections 10-8 and 10-9 hereof, are authorized to place, upon request, live-capture animal traps on private property with the permission of the owner or public property to trap and remove stray, at large, abandoned, or nuisance animals. It is unlawful for any person other than an Animal Services officer or the

officer's designee to remove any animal from the trap or to damage, destroy, move or tamper with the trap. The Agents Animal Center is authorized to receive and impound animals that are trapped by other agencies or persons.

Section 10-11. Duty to report shows and entertainment involving live animals to Agents Animal Center; presence of Animal Services Officer at shows involving animals; penalty for violation.

(a) The owner of any auditorium, theater or other facility open to the public in which any person or other entity intends to have a show or other entertainment involving live animals shall notify in writing the Agents Animal Center and to the City Manager's Office of such intent not less than thirty (30) calendar days in advance of such show or entertainment. An administrative fee of one hundred dollars (\$100) per event shall be payable to Agents Animal Center and accompanying the required form of notification.

(b) No owner of any auditorium, theater or other facility open to the public in which any person or other entity intends to have a show or other entertainment involving live animals shall permit or allow any such show or entertainment in the absence of an officer or employee of the Agents Animal Center, except as provided in subsection (c) below.

(c) The Agents Animal Center, upon receiving such notice, shall have one (1) or more of its officers or employees present at the arrival, departure and/or presentation of such show or other entertainment in order to ensure compliance with the provisions of this Chapter, provided that the Agents Animal Center may, in its discretion, elect not to attend such show or entertainment and shall notify the owner or representative who has provided the aforesaid notification of such election in writing, and in such event no such owner shall be deemed to have violated the provisions of this section.

(d) This section does not apply to dog shows, cat shows or other similar events involving animals being judge or exhibited.

Section 10-12. Inspections.

Whenever it is necessary to make an inspection to enforce any of the provisions of or perform any duty imposed by this Chapter or other applicable law, or whenever there is reasonable cause to believe that there exists in any building or upon any premises any violation of the provisions of this Chapter or other applicable law, an animal services officer or police officer or designee of the City Manager is hereby empowered to enter such property at any reasonable time and to inspect the property and perform any duty imposed by this chapter or other applicable law, but only if the consent of the occupant or owner of the property is freely given or a search warrant is obtained, as follows:

(a) If such property is occupied, the officer shall first present proper credentials to the occupant and request permission to enter, explaining his reasons therefore;

- (b) If such property is unoccupied, the officer shall first make a reasonable effort to locate the owner or other persons having charge or control of the property, present proper credentials and request permission to enter, explaining his reasons therefore; and
- (c) If such entry is refused or cannot be obtained because the owner or other person having charge or control of the property cannot be found after due diligence, the animal services officer, police officer or designee of the City Manager shall seek to obtain a warrant from the City Court Judge or the General Sessions Court of Hamilton County, Tennessee, to conduct a search of the property.

Section 10-13. Reserved.

## ARTICLE II. IN GENERAL, IMPOUNDING

Section 10-14. Authority to go upon private property.

An agent of Agents Animal Center or any authorized person pursuant to Section 10- 9 of this Ordinance, can pursue any animal for the purposes of enforcing the provisions of this chapter over open property or open fields unless requested to leave by any owner of the property. Any agent of the Agents Animal Center, police officer, peace officer, or other employee of the city under the control and supervision of the aforementioned persons shall have the right to go on unfenced or unposted private property within the city of Red Bank for the express purpose of enforcing the provisions of this chapter provided it is necessary or expedient for such purpose.

Section 10-15. Animals at large.

(a) It shall be unlawful for any person to allow any unrestrained animal belonging to him or under his control or habitually found on premises occupied by him or immediately under his control to go unrestrained or be allowed to be not directly under control. Any animal found running at large in violation of this section and any animal required to be licensed found at large unlicensed is declared to be a nuisance and liable to seizure and disposal as provided in this Chapter.

(b) Any animal found at-large more than once in any twelve (12) month period shall be subject to seizure and/ or impoundment. Such animal shall not be redeemed by any person until such animal is spayed or neutered. The owner or keeper of such animal shall be responsible for the expense of such spay/ neuter. Spaying/Neutering requirement will be waived upon a showing of proof of /spay/neuter from a licensed veterinarian or if the owner or keeper provides a written statement from a licensed veterinarian stating that the spay/ neuter procedure would be harmful to the animal.

(c) Estrous period. It shall be unlawful for any person owning or having ownership,

possession, charge, custody or control of a female dog or female cat to allow that animal to be at large during its estrous period or in heat. During this period, the owner or person having possession of the animal must restrain the animal in a secure, roofed enclosure in such a manner that will prevent the animal from coming in contact with a male of its species. Any such dog or cat not so confined may be seized and impounded. Such animal shall not be redeemed by any person until such animal is spayed if the female animal is in heat at the time of impound as is determined by a licensed veterinarian. This section shall not be construed to prohibit the intentional breeding of animals on the premises of the owners or keepers of the animals involved, if the owner is found to be in possession of a current breeders permit.

(d) It shall be unlawful for any person to permit his or her animal, or an animal in such person's care, in any public park or recreation area, including pedestrian walkways and bridges, if there is posted in such park or recreation area a sign prohibiting such animals. Any animal found in a park or recreation area in violation of this section is declared to be a nuisance and liable to seizure and disposal as provided in this Chapter.

Section 10-16. Animal causing unsanitary conditions; prohibited.

(a) It shall be unlawful for any person to allow an animal to cause unsanitary conditions within the city limits of Red Bank. This serves to require the proper disposal of pet solid waste in the city of Red Bank, so as to protect public health, safety and welfare, and to prescribe penalties for failure to comply.

(b) All owners and persons are required to immediately and properly dispose of a pet's solid waste deposited on any property, public or private, not owned or possessed by that person which shall include, at a minimum, immediate placement of animal waste in a plastic bag, tying or sealing same, and placing the bag and contents in a garbage can or other suitable container.

(c) Any owner or keeper who requires the use of a disability assistance animal shall be exempt from the provisions of this section while such animal is being used for that purpose.

(d) The provisions of this Article shall be enforced by the Agents Animal Center, and Police Department of the city of Red Bank and/or other designees of the City Manager.

(e) Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a mandatory fine of \$50.00.

Section 10-17. Animal creating nuisance; prohibited.

It shall be unlawful for any owner or custodian to permit his or her animal, or an animal in his or her care, to create a public nuisance as defined by this Chapter. The owner or custodian must keep the animal that has been determined by the Agents Animal Center and/or by a police officer or the designee of the City Manager to be creating a public nuisance on his or her own property at all times unless the animal is under physical restraint. If the Agents Animal Center

director and/or the designee of the City Manager declares an animal to be a public nuisance under this section, then the director has the authority to instruct the animal's owner or custodian in writing to abate the nuisance. It shall be unlawful for the animal's owner or custodian to fail to comply with such instructions.

Section 10-18. Keeping stray animals; failure to surrender stray animal.

It shall be unlawful for any person in the City to knowingly and intentionally harbor or keep in possession by confinement or otherwise any animal which does not belong to such person without permission of the owner. Any person within twenty-four (24) hours from the time such animal came into his or her possession must surrender the animal to the Agents Animal Center. Upon receipt an animal services officer shall take such animal and place it in the Agents Animal Center for a required legal stray hold period of five (5) days. If such animal is not reclaimed after five (5) days, the person may apply through normal process and fees to become the adoptive owner of the animal. The expense of sheltering fees, license fee and rabies vaccination must be assumed by the owner if the animal is reclaimed prior to the end of the five (5) days. No person harboring such an animal shall refuse to relinquish such animal to its legal owner prior to the expiration of said five (5) days.

Section 10-19. Impounding, destruction of violating animals authorized.

(a) The Agents Animal Center shall take up and impound any animal found running at large and/or in violation of this Chapter.

(b) If, in the attempt to seize an animal, it becomes impossible to do so with the hands, any Animal Services or police officer, being convinced that seizure of the animal is necessary to public welfare by reason of its viciousness or infection with rabies, may, at his or her discretion, tranquilize the animal, discharge his or her Taser, Mace or a police officer may dispose of the animal by shooting it.

If any animal so impounded is found to be neonatal, suffering in pain, sick, injured, contagious, carrying a zoonotic disease or vicious, the animal may be immediately destroyed in a humane manner as provided in Section 10-28.

(c) Excluding owner-relinquished animals, if the Agents Animal Center takes custody of a domestic animal pursuant to this chapter, the Agents Animal Center shall give notice of such seizure by posting a copy of it at the property location at which the animal was seized or and at the property at which an Agents Animal Center officer reasonably believes the animal may reside or by delivering it to a person residing on such properties within two (2) business days of the time the animal was seized.

Section 10-20. Care while in custody.

Any animal care facility including any Animal Shelter shall provide clean, comfortable



and sanitary quarters for all dogs and cats, keeping intact males and females and vicious dogs in separate kennels or cages and shall provide a liberal allowance of wholesome food and fresh, clean water and clean bedding.

Section 10-21. Notification of impounding.

Immediately upon impounding an animal, the Agents Animal Center or its designee shall give notice by postcard or letter sent certified by United States mail to the address of the owner, if known, within two (2) business days after the seizure of such animal. The letter or postcard shall inform such owner of the conditions whereby the animal may be redeemed. Notification by mail shall not be required for animals which have been impounded pursuant to this Chapter if a citation has been issued to the owner or for owner-relinquished, abandoned or quarantined animals or wildlife.

Section 10-22. Redemption of impounded animals by owner; fees.

(a) The owner of a dog or cat may claim and redeem it upon payment of the license fee required by this Chapter and an impound fee of twenty dollars (\$20.00) plus board for each day such dog or cat has been kept at the Agents Animal Center at the rate of ten dollars (\$10.00) per day; provided, however, that, upon the second and subsequent offenses, for a licensed or unlicensed dog or cat, the above fee shall be fifty dollars (\$50.00) in addition to the board of ten dollars (\$10.00) per day as set out above. All veterinary costs and/or other costs incurred as a result of impound shall be the responsibility of the owner and shall be required to be paid in full whether the animal is reclaimed or relinquished to the Agents Animal Center.

(b) All owners of livestock may claim and redeem such animal by paying the Agents Animal Center an impound fee of fifty dollars (\$50) and board for each day at the rate of ten dollars (\$10) per day plus the cost of any transportation of the animal to the Shelter. Such costs as well as all veterinary costs and or other costs incurred as a result of the impound shall be the responsibility of the owner and shall be required to be paid in full regardless of whether the animal is reclaimed or relinquished to the Agents Animal Center.

Section 10-23. Disposition of unclaimed dogs or cats.

Any currently licensed or otherwise identified dog or cat impounded shall be kept for a period of ten (10) days after certified notice is mailed to the owner, and if not redeemed within such period may be humanely destroyed or otherwise disposed of as provided by law.

Any unlicensed dog or cat impounded with no detectible identification shall be kept for five (5) business days and if not claimed or redeemed shall be humanely destroyed or otherwise disposed of as provided by law.

Section 10-24. Detention when rabies suspected.

Every animal determined or reasonably suspected by the Health Director of the Hamilton County Health Department or any authorized officer thereof and/or by the Agents Animal Center and/or by any person otherwise authorized by Section 10-9 of this Title to pose a risk of rabies and every animal that has bitten a human and/or been exposed to rabies or is suspected of having rabies shall be, at the direction of the Director of Health, quarantined for a minimum period of ten (10) days at the owner's home or at the Agents Animal Center or, at the option of the owner of such animal, shall be detained in a licensed veterinary hospital on condition that such owner shall make arrangements with such veterinary hospital and shall be liable for the payment of the charges while such dog or cat is confined therein. During such confinement the dog or cat shall be under the observation and supervision of the Director of Health or his designee, and it shall be released or, if the animal is determined by a veterinarian or the Director of Health or his designee to have rabies, humanely destroyed by the Agents Animal Center after the termination of the observation period according to instructions from the director of health. The Director of Health may order the Agents Animal Center to destroy such dog or cat at any time during the period of observation if evidence is such as to convince the director that the dog or cat has rabies. The owner of such dog or cat shall be liable for board fees in the amount of ten dollars (\$10.00) per day if such dog or cat is confined at the Agents Animal Center. Such costs as well as all veterinary costs and/or other costs incurred as a result of the impound shall be the responsibility of the owner and shall be required to be paid in full whether the animal is reclaimed or relinquished to the Agents Animal Center. State law reference-T.C.A. §§ 68-8-101—68-8-113.

Section 10-25. Procedure with respect to redemption or adoption of animals.

(a) No person shall adopt a dog or cat from an agency, including but not limited to an Agents Animal Center, dog pound, animal control agency, humane shelter or private organization operating a shelter from which animals are adopted or reclaimed, unless:

- (1) The dog or cat has first been spayed or neutered; or
- (2) The new owner signs a written agreement with the agency stating that he or she will have the animal spayed/neutered within thirty (30) days after adoption of such animal if the animal is at least six (6) months of age or to be done by the age of six (6) months.

(b) The agency shall have the authority to require deposits from the new owner in order to ensure that the animal is spayed or neutered. The deposit shall not be less than twenty-five dollars (\$25.00). Any deposits unclaimed after a period of six (6) months from the date due for surgery and in which time reasonable efforts have been made to ensure compliance, shall be deemed to be forfeited and shall only be used for the altering of animals. The provisions of this subsection shall not apply to persons selling or giving away animals from a residence, business or retail facility.

(c) All dogs and cats adopted from the Agents Animal Center shall be vaccinated against rabies prior to adoption, provided that if the dog or cat is less than three (3) months old a

deposit of not less than twenty-five dollars (\$25.00) shall be collected from the person adopting the animal, which shall be refunded upon presentation of proof of rabies vaccination within fifteen (15) days of the animal reaching four months of age. In the alternative, a person adopting a dog or cat may prepay the cost of such vaccination at the Agents Animal Center; such person must obtain the vaccination within fifteen (15) days of the adoption of such dog or cat if the animal is over three months of age or within fifteen (15) days of the dog or cat reaching three (3) months of age.

(d) Except for dogs and cats for which the owner can provide proof of vaccination, all dogs and cats redeemed from the Agents Animal Center shall be vaccinated against rabies prior to redemption, provided that if the dog or cat is less than three (3) months old a deposit of not less than twenty-five dollars (\$25.00) shall be collected from the person redeeming the animal, which shall be refunded upon presentation of proof of rabies vaccination within fifteen (15) days of the animal reaching four months of age.

Section 10-26. Immediate placement for adoption or destruction of animal surrendered by owner.

An animal surrendered by its owner to the Agents Animal Center may be immediately placed for adoption or humanely destroyed in the discretion of the Agents Animal Center director or the director's designee when the owner:

- (i) Affirmatively represents by affidavit that he or she is in fact the legal owner of said animal;
- (ii) Agrees to hold the City of Red Bank, Agents Animal Center and its officials and employees harmless from any liability, claims, or damages that may be sustained by reason of the adoption or destruction of said animal; and
- (iii) Transfers ownership of said animal to the City or Animal Center.

Section 10-27. Notice of seizure of animal.

Excluding owner-surrendered animals, if the Agents Animal Center takes custody of a domestic animal pursuant to this Chapter, the Division or its designee shall give notice of such seizure by posting a copy of it at the property location in the City of Red Bank at which the animal was seized or and at the property at which an Animal Services officer reasonably believes the animal may reside or by delivering it to a person residing on such properties within two (2) business days of the time the animal was seized.

Section 10-28. General duties of keepers of animals.

(a) Unlawful conduct. It shall be unlawful for any person to neglect an animal as neglect is defined in this Chapter.

(b) Breeding and reproduction of diseased animals prohibited. A person owning or having possession, charge, custody or control of an animal shall not breed, sell, give away or allow the reproduction of that animal with a disease contagious to other animals or human beings. Breeding of animals in the city limits shall not be permitted without first obtaining a breeder's permit pursuant to this chapter. Each offspring shall be considered a separate violation.

(c) Abandonment. It shall be unlawful for any person owning or having possession, charge, custody or control of an animal to abandon that animal on a street, road, highway, public place, Agents Animal Center or private property. Each animal abandoned in violation of this section shall be considered a separate violation.

(d) Public Nuisance. It shall be unlawful for any person to allow any animal under his or her care or control to become a public nuisance as defined in this Chapter.

Section 10-29. Destruction of dangerous, diseased or injured animals.

(a) It shall be the duty of the Executive Director of the Agents Animal Center to order the humane destruction of any animal lawfully taken into the custody of the Agents Animal Center if it is deemed more humane to euthanize such animal than hold it for the required holding period due to sickness, disease, injury or danger to the safety of the community. If the animal to be euthanized under this section is wearing an identification, rabies or license tag, the owner shall be notified before the animal is euthanized unless the animal is in critical condition and the owner cannot be reached within a reasonable period of time in which event a veterinarian may authorize euthanasia of the animal for humane reasons.

(b) The Executive Director may issue either a verbal authorization followed by written confirmation or written authorization for such humane destruction.

Section 10-30. Exemption from Chapter.

This chapter does not apply to certified and trained dogs owned and utilized by any law enforcement agency during work-related activities.

ARTICLE III. LICENSING, PERMITTING, AND INOCULATION  
OF DOGS AND CATS

Section 10-31. City license required; exception.

(a) The owner of every dog and cat over the age of three (3) months in the City shall obtain a license for such dog or cat from the City's Agent, i.e., McKamey Animal Center, located at 4500 N. Access Road, Chattanooga, TN 37415 or such places or locales within the City of Red Bank, if any, as the City shall determine as appropriate from time to time. The license or renewal thereof shall state the sex, breed, age, color and name of the dog or cat, together with its

markings, if any, the name and address of the owner and the date of registration. Owners of dogs or cats who have failed to obtain a license for their animals and owners of dogs or cats who have failed to renew the license of their animals within thirty (30) days of the date of license expiration shall be deemed delinquent and shall be subject to an additional late fee of twenty dollars (\$20.00) per dog or cat in addition to the regular license fee and in addition to any fines imposed upon such owners by a court of competent jurisdiction.

(b) The provisions of this section shall not apply to:

i) Nonresidents of the City who are traveling through the City or temporarily sojourning therein for a period of less than thirty (30) days, nor to persons bringing dogs or cats into the City exclusively for show or exhibition purposes.

ii) An animal rescued by a registered rescue organization (as defined in this chapter) for a period of one (1) year from the intake/rescue of such animal.

(c) The McKamey Animal Center and or the City's Agent shall issue a metal license tag for each dog or cat registered as provided herein, marked "Registered, [date], Red Bank, No. --." Such tag shall be fastened to the dog's or cat's collar and worn by the dog or cat at all times. Breakaway collars are recommended when tags are affixed to collars worn by cats. It shall be unlawful for any person to use a tag on a dog or cat for which such tag was not issued. License tags issued to dangerous dogs and to potentially dangerous dogs shall be of a distinctive color different from regular license tags and different from each other.

#### Section 10-32. License fees.

(a) Subject to the provisions of subsection (b) below, the annual license fee for dogs and/or cats shall be ten dollars (\$10.00) each; provided, that a surcharge of an additional forty dollars (\$40.00) annually shall be levied against all dogs and cats which are not neutered. The license will be valid from January 1<sup>st</sup> to December 31<sup>st</sup> as long as a legal rabies vaccination is kept current. Licenses for up to three (3) animals that are neutered and owned by senior citizens over age sixty-five (65) shall be free as long as the animals are current on rabies vaccinations. The McKamey Animal Center and/or the City's Agent is authorized to charge a fee of five dollars (\$5.00) for each lost tag replaced. The McKamey Animal Center is authorized to charge a fee for implantation of microchips for the purpose of identification, registration and return of impounded pets to owners. Annual licenses will also be sold to participating licensed veterinarians by the McKamey Animal Center for resale to clients. Licensed veterinarians may add an additional \$2.00 convenience fee to each license fee the convenience fee will be retained by the participating veterinarian. The veterinarian will be required to submit a monthly report to the McKamey Animal Center and/or the City's Agent before the 5<sup>th</sup> day of each month, regarding the disposition of the licenses sold to his/her clients.

(b) The annual license fee for a potentially dangerous dog (PDD) as defined herein, shall be One hundred dollars (\$100.00) each; provided, that a mandatory surcharge of an additional fifty (\$50.00) shall be levied against all such dogs which are not spayed or neutered. The annual license fee for a dangerous dog (DD) shall be two hundred dollars (\$200.00) each provided, that a mandatory surcharge of an additional fifty (\$50.00) shall be levied against all such dogs which are not spayed or neutered. (PDD) and (DD) tags shall be of a distinctive color different from regular license tags and different from each other. The licenses for potentially dangerous dogs and dangerous dogs must be renewed by January 1<sup>st</sup> each calendar year. The license fees set forth in this subsection (b) apply to all potentially dangerous dogs and dangerous dogs regardless of ownership.

(c) The licenses, fees and taxes collected pursuant to this Article shall be used by the McKamey Animal Center and/or the City's Agent for the purposes set forth in this Chapter or otherwise provided by contract. The surcharge for unneutered dogs and cats shall be used exclusively for the sterilization of companion animals.

(d) The City Commission may adjust, increase or decrease the fees or taxes to be paid and collected pursuant to this Article by Resolution of the City Commission without the necessity of an amendment to this Ordinance.

Section 10-33. Multiple-pet, pet/animal dealer, and breeder/kennel/cattery permits.

(a) No person or organization shall keep, lodge or maintain in excess of seven (7) dogs and/or cats, unless such person or organization shall apply for and receive a multiple-pet permit from the City's Agent, i.e., McKamey Animal Center located at 4500 N. Access Road, Chattanooga, TN 37415 at the following rates.

1. Fifty dollars (\$50.00) for each dog or cat in excess of seven (7) and up to and including ten (10) dogs or cats
2. One hundred dollars (\$100) for each dog or cat in excess of twenty (20) dogs or cats.
3. Two hundred dollars (\$200) for each dog or cat in excess of twenty (20) dogs or cats.

(b) This requirement shall not apply to a registered rescue organization, an animal shelter, a zoo of a governmental agency, or an institution of higher learning.

(c) Any person operating a rescue organization or shelter must register with the City's Agent, i.e., the McKamey Animal Center, providing documents as may be required for proof of rescuer status, in order to fit within the exceptions to licensing and permitting in this chapter.

(d) Any pet/animal dealer, as defined in this chapter, must apply for and receive a pet/animal dealer permit from the City's Agent, i.e., McKamey Animal Center.

(e) Any person who owns or has control of a dog or cat and who intentionally or accidentally causes or allows the breeding of such dog or cat shall obtain a breeder's permit.

(f) Multiple-Pet and Pet Dealer permits will not be issued to persons found to have violated City and/or state laws regarding neglect or cruelty.

Section 10-34. Permits generally.

(a) All animal-related permits will be valid from January 1<sup>st</sup> to December 31<sup>st</sup> of the year of purchase and will be required in addition to any other licenses or permits required by this chapter.

(b) Any fees for multiple pets are in addition to any other license, permit or other fees imposed by this ordinance.

Registered Rescue Organization: no permit fee is charged.

(c) Facilities or quarters where animals are kept shall meet minimum standards based on the definitions regarding adequate care.

(d) Facilities of any of the above permit applicants and registered rescue organizations will be subject to inspection by Animal Service Officers for with this chapter's and the permit's minimum standards.

(e) Such permits may be revoked if negligence in care or misconduct occurs that is detrimental to animal welfare or to the public. Revocation of such permit may only be reinstated after successfully passing an inspection of such facilities and paying the cost of such permit and any applicable fines and fees.

(f) Any advertisements for the sale, bartering or adoption of animals covered by these permits shall state the breeder or pet dealer permit number, if applicable, in such advertisement. Violations of this requirement shall be subject to a fine of \$50.00 per occurrence.

(g) It shall be unlawful to sell barter, trade or adopt any animal as a curbside sale within the city limits of Red Bank.

(h) Whether or not required to have a permit, any person or shelter who sells, barter, adopts out or otherwise gives away a dog or cat shall keep a written record of the description of the animal and the name and address of the purchaser/ adoptee. Such records shall be kept for at least one year and will be provided to the McKamey Animal Center upon request.

(i) Persons who meet the criteria to have a permit under this section but who have

failed to obtain a permit or who have failed to renew the permit within thirty (30) days of the expiration of any prior license shall be deemed delinquent and shall, effective February 1<sup>st</sup> of each successive year, be subject to an additional late fee of twenty dollars (\$20.00) per permit in addition to the regular permit fee and in addition to any fines imposed upon such owners by the City Court or the City Administrative Hearing Officer of the City of Red Bank.

Section 10-35. Rabies inoculation required.

(a) Any person who owns keeps or harbors a dog or cat within the City shall have such dog or cat properly inoculated or immunized against rabies. Any person who obtains an uninoculated dog or cat shall at once have such dog or cat properly inoculated against rabies and have the first time inoculation repeated one (1) year thereafter; thereafter the duration of the rabies vaccination cannot exceed three (3) years and must be in accordance with manufacturer's recommendation provided that, dogs and cats need not be inoculated before reaching the age of three (3) months.

(b) No person shall bring a dog or cat into the City for sale, exchange, offer for adoption, or giving away from another state unless such dog or cat, being at least 3 months of age, has been inoculated by a veterinarian of the state in which the owner, caretaker or responsible person lives and the owner, caretaker or responsible person of such dog or cat has in his/her possession a certificate of the vaccination or inoculation.

Section 10-36. Inoculation records required; tags.

Any veterinarian who inoculates or a dog or cat against rabies shall keep a record of such inoculation shall provide the owner of the dog or cat with an approved tag, which shall have thereon, indelible or engraved, the year of inoculation and a number which shall correspond with the number on the record kept by the person inoculating such dog or cat. Such tag shall be securely fastened to the collar worn by the dog or cat.

Sections 10-37 - 40. Reserved.

#### ARTICLE IV. BARKING DOGS

Section 10-41. Definition.

As used in this Article, "barking dog" means any dog which, by causing frequent or long, continued noise, disturbs the comfort or repose of any person in a residence, hotel, motel or hospital or creates any other noise that a reasonable person would find distressing or disruptive, regardless of whether the dog is physically situated in or upon private property. Such extended period of time shall consist of incessant barking for 15 minutes or more in any 24-hour period, or intermittent barking for 30 minutes or more during any 24-hour period. A dog shall not be deemed a "barking dog" for purposes of this Chapter if, at any time the dog is barking, a person is trespassing or threatening to trespass upon private property in or upon which the dog is situated,



or when the dog is being teased or provoked or is responding to an emergency.

Section 10-42. Barking dogs generally.

- (a) It shall be unlawful for a barking dog to exist in the City as defined by this Article.
- (b) For purposes of this Article, a person violates this Section as follows:
  - (1) Allows a barking dog violation to exist, whether through willful action, failure to act, or failure to exercise proper control over a barking dog.
  - (2) A person whose agent, employee, or independent contractor allows a barking dog violation to exist, whether through willful action, failure to act, or failure to exercise proper control over a barking dog.
  - (3) A person who is the owner of, or a person who is a lessee or sub lessee with the current right of possession of, real property in or upon which a barking dog violation occurs.
  - (4) For purposes of this Section, "person" includes a natural person, legal entity, or the owners, majority stockholders, corporate officers, trustees, and general partners of a legal entity.
  - (5) For the purposes of this Section, there may be more than one person responsible for a barking dog violation.

Section 10-43. Citation for barking dog.

- (a) The City's Agent, Animal services officers and police officers and other designees of the City Manager have the authority to issue a citation to any person responsible for a barking dog violation if probable cause exists based upon the officer's investigation.
- (b) A person who violates this Article shall be liable for and shall pay to the City of Red Bank a fine as described in the barking dog citation when due or contest the citation.
- (c) Prior to issuing a citation for a barking dog, the person responsible shall be given a ten (10) day warning period within which to correct the problem.
- (d) Each day a barking dog violation exists shall be a separate violation and be subject to a separate citation and fine. A barking dog citation may include a violation for one (1) or more days on which a violation exists, and for violation of one (1) or more Code sections.

Section 10-44. Barking dog citation contents.

Each barking dog citation shall contain the following information:

- (a) Date on which a complaint or personal inspection established the barking dog violation(s);
- (b) Name of the person responsible for the barking dog violation(s) (if known);
- (c) Address where the barking dog violation(s) occurred;
- (d) The Code section(s) violated;
- (e) How the violation(s) were established;
- (f) Amount of the fine for the violation(s) and procedure to pay the fine;
- (g) Designation of prior citations issued for the same Code violation(s), if known by the animal services officer;
- (h) Notification of an assigned court date, time and location where the fine may be contested;
- (i) A notice that a barking dog violation is a nuisance and that collection of unpaid fines and/or penalties can result in additional fines;
- (j) Signature of the animal services officer who issued the barking dog citation;
- (k) Date upon which the barking dog citation was issued;
- (l) Proof of service to be completed by the animal services officer indicating whether citation was issued by personal service, by mail, or by posting in a conspicuous place on the property where the barking dog violation occurred; and
- (m) Any other information deemed necessary by the animal services officer for enforcement or collection purposes.

Section 10-45. Service of barking dog citation.

A barking dog citation may be served as follows:

- (a) The City's Agent, an animal services officer and/or Police Officer may personally serve the barking dog citation on the person responsible and or in possession of the premises from which the issue/problem arises.

(b) The City's Agent, an animal services officer may mail the civil citation by certified mail, return receipt requested, if the property owner and/or occupier's name is known but the violator is not present when personal service is attempted. The citation shall be mailed to the address where the barking dog violation occurred.

(c) The City's Agent, an animal services officer may post a copy of the barking dog citation in a conspicuous place on the property where the barking dog violation occurred if the property owner and/or occupier's name is unknown. In this event, the citation shall also be mailed addressed to the owner of the property where the barking dog violation occurred. A copy of the citation shall also be mailed within twenty-four (24) hours of posting the citation addressed to "Resident" at the address where the barking dog violation occurred.

Section 10-46. Payment of barking dog civil fines.

(a) A person who receives a citation under this Article may:

(1) Pay the fine in accordance with the instructions on the citation, directly to the City of Red Bank;

(2) Elect to contest the citation for the alleged violation in a hearing before the Administrative Hearing Officer for the City of Red Bank, in accordance with instructions on the citation.

(b) To avoid additional penalties, fines for barking dog violations must be received within fifteen (15) days of the date they are due.

(c) Payment of a fine shall not excuse the violator from correcting the barking dog violation. The issuance of a barking dog citation and/or payment of a fee shall not bar the City from taking any other enforcement action regarding a barking dog violation that is not corrected including without limitation, requiring removal of the dog from the premises where the offense(s) occurred and upon failure to do so, the imposition of a penalty of up to Fifty (\$50.00) per day, each day being a separate offense, for failing to do so.

Sections 10-47 - 48. Reserved.

ARTICLE V. CRUELTY

Section 10-49. Failure to feed and water impounded animals.

It shall be unlawful for any person who impounds or causes to be impounded any animal in any shelter or other place in the City to fail to supply to such animal during such confinement adequate care as defined in this Chapter. If any animal is at any time impounded as provided herein, and continues to be without adequate care as defined in this Chapter, it shall be lawful for

any person, from time to time, and as often as it shall be necessary, to enter into and upon the premises where such animal is confined, and to supply it with necessary food and water so long as it remains so confined, and such person shall not be liable to any action for such entry.

Section 10-50. Transporting in inhumane manner.

(a) It shall be unlawful for any person in the City to carry or cause to be carried in or upon any vehicle or other conveyance any animal in a cruel or inhumane manner or to leave an animal in a vehicle in a manner so as to subject such animal to excessive heat.

(b) No person shall transport any dog in or on the back of any open truck or other open vehicle while traveling on any city road, street, highway, lane or alley except as otherwise provided by this Section.

(c) This section shall not apply to any person who transports a dog in any open truck or other open vehicle which is sufficiently enclosed by stakes, racks, or is equipped with other devices which prevent the dog from falling, hanging, or escaping from the vehicle.

(d) This section shall not apply to any person while engaged in agricultural livestock activities.

Section 10-51. Authority to prevent acts of cruelty; unlawful interference.

Any Animal Services Officer or police officer may lawfully interfere to prevent the perpetration of any act of cruelty upon any animal in his or her presence, and it shall be unlawful for any person to interfere with or obstruct any such officer in the discharge of such duty.

Section 10-52. Tethering dogs and other animals.

(a) It shall be unlawful for any person to tie or tether a dog or other animal to a stationary object for a more than a reasonable period of time or in a location so as to create an unhealthy situation for the animal or a potentially dangerous situation for a pedestrian as determined by an animal services officer.

(b) The terms “unhealthy situation” and “potentially dangerous situation” shall include, but not be limited to the following:

(1) Tether, fasten, chain, tie, or restrain a dog, or cause a dog to be tethered, fastened, chained, tied, or restrained, to a dog house, tree, fence, or any other stationary object for longer than a reasonable time;

(2) Tether any animal in such a manner as to permit the animal to leave the owner’s property;

- (3) Tether any animal in an area that is not properly fenced so as to prevent any person or child from entering the area occupied by said animal;
- (4) Tether any companion animal in a manner whereby the animal is subject to harassment and perpetual stings or bites that show evidence of injury from outdoor insects, or attacks by other animals;
- (5) Failure to remove waste from the tethered area on a daily basis;
- (6) Allow more than one animal to be tethered to each running cable or trolley line.
- (7) Use a tether that weighs more than one fifth (1/5) of the animal's body weight.
- (8) Tether, chain, attached to a running cable line or trolley system any animal between the hours of 10 p.m. and 6 a.m.;
- (9) Use a running cable line or trolley system that is made of a substance which can be chewed by the animal;
- (10) Use of a tether from the running cable line or trolley system to the animal's collar that prohibits access to food, water, and shelter as well as access to the maximum available area for adequate exercise;
- (11) Tether an animal in any manner other than by using a properly fitted harness or collar. Said collar shall not be the same one used for the display of current rabies and/or license tags; and
- (12) Tether an animal in a manner or location that would allow for (i) the tangling of the cable or tether; (ii) the extension of the cable or tether over an object or an edge that could result in injury or strangulation of the animal; or (iii) access by the animal to a fence.

(c) A person may do any of the following provided the dog does not become a nuisance to neighbors:

- (1) Attach a dog to a running line, pulley, or trolley system. A dog shall not be tethered to the running line, pulley, or trolley system by means of a choke collar or pinch collar or for longer than a reasonable period of time.
- (2) Tether, fasten, chain, tie, or otherwise restrain a dog pursuant to the requirements of a recreational area.

(3) Tether, fasten, chain, or tie a dog no longer than is necessary for the person to complete a temporary task that requires the dog to be restrained for a reasonable period.

(4) Tether, fasten, chain, or tie a dog while engaged in, or actively training for, an activity that is conducted pursuant to a valid license issued by the State of Tennessee if the activity for which the license is issued is associated with the use or presence of a dog.

(d) Nothing in this Section shall be construed to prohibit a person from restraining a dog while participating in activities or using accommodations that are reasonably associated with the licensed activity.

Section 10-53. Sale, barter or giving away of baby chickens, ducklings, other fowl or baby rabbits.

It shall be unlawful for any person, firm or corporation to sell, offer for sale, barter or give away baby chickens, ducklings, or other fowl under three (3) weeks of age, or rabbits under two (2) months of age, as pets, toys, premiums or novelties or to color, dye, stain or otherwise change the natural color of baby chickens, ducklings, fowl or rabbits, or to bring or transport the same into the City, provided that, this shall not be construed to prohibit the sale or display of such baby chickens, ducklings, fowl or such rabbits, in proper facilities by breeders or stores engaged in the business of selling for the purpose of commercial breeding or raising.

Section 10-54. Unattended Animals left in automobile.

(a) A person may not leave a cat or dog unattended in a standing or parked motor vehicle in a manner that endangers the health or safety of the cat or dog.

(b) A person may use reasonable force to remove from a motor vehicle a cat or dog left in the vehicle in violation of the provisions of subsection (a) of this section if the person is:

- (1) A law enforcement officer or a designee of the City Manager;
- (2) A public safety employee of the State or of a local governing body;
- (3) An animal control officer under the jurisdiction of the State or this City; or
- (4) A volunteer or professional of a fire and rescue service.

(c) A person described in this section may not be held liable for any damages directly resulting from actions taken in good faith under the provisions this section.

Sections 10-55 – 57. Reserved.

## ARTICLE VI. DEAD ANIMALS

Section 10-58. Disposition of large animals in City prohibited; exception.

It shall be unlawful for any person to bury any large dead animal in the City or to deposit the same upon the surface of the ground or throw it into any river, creek or other stream or any well, cistern, cellar or other excavation or to hide it in any culvert or other place or in any way to leave or dispose of it in the City or within one (1) mile of the corporate limits; provided that, the City's Agent and/or the McKamey Animal Center director or the director's designee may issue a permit for the disposal of large dead animals, under such regulations as the director and/or City Manager may prescribe, in the City, at such places as will not, in his or her judgment, be detrimental to the public health or comfort.

Section 10-59. When owner or occupant to remove large animal from premises.

The owner or occupant of any premises in the City upon which any large animal dies or is found dead shall remove such animal, or cause the same to be removed, to some point more than one (1) mile beyond the corporate limits within six (6) hours from the time such animal dies, or is found dead, unless it dies or is found dead after 6:00 p.m., which it shall be removed before noon of the following day.

Section 10-60. Disposition of small animals.

All small dead animals shall be placed and kept in cans provided for the removal of garbage until collected by the City. Animals may also be presented for euthanasia and cremation at the McKamey Animal Center.

Sections 10-61 - 63. Reserved.

## ARTICLE VII. TRAPPING ANIMALS

Section 10-64. Definition.

As used in this Article, "trapping" means taking, killing and capturing wildlife by the use of any trap, snare, deadfall or other device commonly used to capture wildlife, and the shooting or killing of wildlife lawfully trapped, and includes all lesser acts such as placing, setting or staking such traps, snares, deadfalls and other devices, whether or not such acts result in taking of wildlife, and every attempt to take and every act of assistance to any other person in taking or attempting to take wildlife with traps, snares, deadfalls or other devices.

Section 10-65. Poisoning or trapping animals.

It shall be unlawful to trap animals within the city limits of Red Bank unless a humane trap is used and the animal is humanely destroyed or relocated as is allowed by this chapter. This shall not be deemed to apply to setting traps for vermin in any house or other building or to apply to any licensed trapper removing nuisance or destructive wildlife. It shall be unlawful for any person to poison or trap any animal or aid, abet or assist in the poisoning or trapping or the putting out or placing of poison or a trap at any place outside of the buildings within the corporate limits of the city where companion animals may secure or encounter the poison or trap; provided, however, that in instances where any animal by reason of damage to property, danger to life, or threat to public health becomes a nuisance, a live, humane trapping method may be used. This provision shall not be construed to prohibit the trapping of wildlife in accordance with State law.

Section 10-66 - 73. Reserved.

## ARTICLE VIII. LARGE ANIMALS

Section 10-74. Large animals-Record to be kept.

Whenever any large animal of any kind or any livestock is found which is required to be impounded, the City's Agent and/or McKamey Animal Center shall take such animal to the Animal Shelter or other adequate holding facility and shall maintain a careful description of the animal, the precise date and time of day at which it was found and in what locality it was found. Such records shall always be open for inspection by the public under the supervision of McKamey Animal Center and/or the City's Agent. The records of such large animals must be available to the public during normal Animal Shelter hours.

Section 10-75. Large animals-Notices of detention; sale.

On the next business day following the impounding of any large animal or livestock of any kind, the City's Agent and/or McKamey Animal Center shall cause notices of the detention of the animal to be written, containing a full description and the particulars of the animal, and shall post at large two (2) of such notices at Red Bank City Hall in a conspicuous place and in the same notice shall recite that if not redeemed by the owner thereof within ten (10) days from the date of posting the notice, the animal will be sold at public auction to the highest bidder for cash at a day and hour specified in the notice or offered for adoption. Final legal disposition is at the discretion of the City's Agent and/or McKamey Animal Center. All notices shall be numbered consecutively and the McKamey Animal Center and/or the City's Agent, shall retain and post a copy of each. If any large animal or livestock of any kind is not redeemed in the time specified in the notice of detention, it shall be sold by or at the direction of the City Agent and/or McKamey Animal Center at the date and hour specified in such notice at public auction to the highest bidder for cash.

Section 10-76. Large animals-Disposition of animals not sold.

Unclaimed large animals or livestock not sold as provided in Section 10-75 may be



adopted by persons other than their owners upon payment of all accrued fees, and if not so adopted, may be humanely destroyed by the Animal Service Division or otherwise disposed of.

Section 10-77. Keeping or possessing livestock, horses, swine, goats or chickens, and similar animals.

(a)(1) It shall be unlawful for any person to keep or possess livestock, horses, swine, goats, chickens or roosters and/or similar animals within the City on property other than agriculturally zoned land, unless such animals are kept on a tract of land of two (2) or more contiguous acres. Any such animals must be kept or maintained in a manner which does not constitute a nuisance, including foul or offensive odors.

(a)(2) It shall be an affirmative defense to a citation under Section 10-77(a) (1) if the owner/occupant of any real property as to which a violation is deemed to occur establishes by satisfactory evidence that the particular type of animal(s) at issue have been located on the property for a continuous period of two (2) years or longer next preceding the date of enactment of this Ordinance. As a non-exclusive example, the defense shall not be deemed established as to cattle, if present for less than three (3) years, even though horses and/or other animals herein listed may have been otherwise legally present on such property for the required number of years.

(b) This section shall not be construed to apply to persons possessing such animals for the purpose of being transported through the City, to such animals being kept and offered for sale at regularly operated stockyards or slaughterhouses, or which are located temporarily on property for the purpose of controlling kudzu or other invasive plants. This section shall also not apply to Miniature African Pigs or Pot-Bellied Pigs kept as house pets. In the event that the animals are kept for the purpose of controlling kudzu or other invasive plants, the property owner must meet the requirements of Section 10-77(c).

(c) Any animals brought in temporarily to privately own non-agricultural zones for the purpose of controlling kudzu or other invasive plants shall be subject to the following requirements:

(1) The animals shall be managed and monitored by a person who is a certified Goat Browsing Contractor or an appropriate contractor with equivalent certification, and who carries a minimum of One Million and 00/100 Dollars (\$1,000,000.00) of liability insurance.

(2) The owner of the property to be browsed by the animals shall obtain written permission from the owner of the property through which the animals must gain access to the area to be browsed by animals, at least ten (10) business days prior to beginning operation. The use of animals shall be accomplished in a non-threatening manner, and shall be maintained so as not to infringe upon surrounding neighbors.

(3) The area to be browsed by animals shall be measured, staked, and appropriately fenced.

(4) The animals shall remain within a secure enclosure at all times. The animals may be moved to a separate holding pen at night, which shall be located the maximum distance practicable from residences.

(5) The animals shall be used for controlling kudzu or other invasive plants only and shall be removed when seasonal control has been established.

(6) Property owners shall remove and properly dispose of droppings from cattle, goats, or sheep, as needed, to prevent accumulation, to avoid a health or sanitation problems, or the breeding of flies, and to prevent discharge into the storm water system.

(7) The use of animals to control kudzu or other invasive plants shall be accomplished in such a way as to not create erosion. Reasonable care must be taken to prevent storm water run-off or in creating water quality issues.

(8) Any private landowner who uses animals to control kudzu shall obtain a permit from the City Manager or his designee after review by the City's Agent and/or the McKamey Animal Center. The permit fee shall be Fifty and 00/100 (\$50.00) Dollars and shall be valid for one growing season (April 1<sup>st</sup> through October 31<sup>st</sup>) and as long as the permit holder remains in compliance with this ordinance. Any such permit may be revoked by the City Manager or by the Director of Public Works upon satisfactory evidence that the requirements of Section 10-77(c) are not being complied with by the property owner or the contractor.

(9) Once a permit is obtained by the landowner, the landowner will be given the list of Certified Goat Browsing Contractors. The landowner must contract with one of the list of Certified Goat Browsing Contractors or with an approved contractor with equivalent certification. All goat browsing or equivalent contractors shall have a current City business license.

(10) An inspection shall be conducted before the permit is approved. Another inspection shall be conducted before animals are placed on the property to ensure proper fencing has been established. Interim inspections may be conducted to determine if the contractor is complying with Section 10-77(c). A final inspection will be required after the browsing project is complete to ensure that the animals are removed from the site and any temporary fencing is dismantled.

Section 10-78. Horses, mules prohibited on sidewalks.

It shall be unlawful for any person to permit any horse or mule in his custody to go upon any sidewalk in the City. This section shall not apply to police officers in the official performance of their duties.

Section 10-79. Livestock at large prohibited.

It shall be unlawful for any person owning or controlling any bovine, swine, ratites, cattle, horses, mules, sheep, or goats to allow such animals to run at large in the streets or on any privately owned land in the City without the permission of the owner of such land. State (T.C.A. § 44-8-401) and except as otherwise expressly permitted in the City of Red Bank and by this Ordinance.

Section 10-80. Dangerous, mischievous animals at large prohibited.

It shall be unlawful for any person owning or controlling a dangerous or mischievous animal to permit such animal to run at large in the City.

Section 10-81. Fowl running at large, trespassing prohibited.

It shall be unlawful for the owner of any chicken or other fowl to permit it to run at large or upon the premises of any other person in the City.

Section 10-82. City declared wild bird sanctuary; acts prohibited.

The entire area embraced within the City is hereby designated as a sanctuary for wild birds. It shall be unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any wild bird or to rob any bird's nest. When any species of wild bird is found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property, and if such are declared by qualified authorities to be creating a public nuisance and the City Manager or his designee is so informed, appropriate action may be taken by duly constituted officials after a thorough investigation. Trapping or killing of such birds shall not be resorted to unless Audubon societies, the McKamey Animal Center or humane societies are unable to find a satisfactory alternative. Legal permitted hunting through the State of Tennessee is expressly exempted from this provision.

ARTICLE IX.DANGEROUS AND POTENTIALLY DANGEROUS DOGS.

Section 10-83. Findings.

(a) Dangerous dogs have become a serious and widespread threat to the safety and welfare of citizens and domestic animals of this City. In recent years, in or near the City and/or in

the contiguous City of Chattanooga, dogs have assaulted without provocation and seriously injured numerous individuals, particularly children, and have killed other animals. Many of these attacks have occurred in public places.

(b) The number and severity of these attacks are often attributable to the failure of owners to register, confine and properly control dangerous and potentially dangerous dogs.

(c) The necessity for the regulation and control of dangerous and potentially dangerous dogs is a citywide problem, requiring regulation, and existing laws are inadequate to deal with the threat to public health and safety posed by dangerous and potentially dangerous dogs.

Section 10-84. Citation for Designation of Dangerous Dog or Potentially Dangerous Dog; Hearing; Designation of Dangerous Dog or Potentially Dangerous Dog; Imposition of Conditions; No Change of Ownership Pending Hearing.

(a) If an Animal Services officer or a law enforcement officer has investigated and determined that there is probable cause to believe that a dog is potentially dangerous or dangerous, a citation shall be issued for the owner to appear in City Court for the purpose of determining whether or not the dog in question should be designated as a potentially dangerous dog or dangerous dog. Except by agreement of the respondent and counsel for the City and with the approval of the judge, the hearing shall be held not less than five (5) nor more than fifteen (15) business days after service of citation upon the owner or keeper of the dog.

(b) The Court shall designate a dog as a “potentially dangerous dog” if the Court finds, upon a preponderance of the evidence, that the dog:

- (i) has, without provocation, chased or approached a person in either a menacing fashion or an apparent attitude of attack within the prior 18-month period while that dog was off the property of its owner; or
- (ii) Has attempted to attack or has attacked a person or domestic animal within the prior 18-month period while on or off the property of its owner; or
- (iii) Has within the prior 18-month period while off the property of its owner, engaged in any behavior when unprovoked that reasonably would have required a person to take defensive action to prevent bodily injury; or
- (iv) Has when unprovoked while on or off the property of its owner, bitten a person or a domestic animal causing a minor injury.
- (v) Or has engaged in other comparable conduct.

(c) The Court shall designate a dog as a “dangerous dog” if the Court finds, upon a preponderance of the evidence, that the dog:

- (i) has, without provocation on two or more occasions chased or approached a person in either a menacing fashion or an apparent attitude of attack within the prior 18-month period while that dog was off the property of its owner; or
- (ii) Has attempted to attack or has attacked a person or domestic animal on two (2) or more occasions within the prior 18-month period; or
- (iii) Has within the prior 18-month period while off the property of its owner, engaged in any behavior when unprovoked that reasonably would have required a person to take defensive action to prevent bodily injury; or
- (iv) Has when unprovoked while off the property of its owner, bitten a person or a domestic animal causing a severe injury; or
- (v) Has previously been declared a potentially dangerous dog but has not been kept in compliance with any restrictions placed by the City Court judge upon the owner of such dog; or
- (vi) Has been owned, possessed, kept, used or trained in violation of Tennessee Code Annotated § 39-14-203; or
- (vii) Has engaged in other comparable conduct.

(d) No dog may be declared potentially dangerous or dangerous as a result of injury or damage if at the time the injury or damage the victim of the injury or damage (i) was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog; (ii) was teasing, tormenting, abusing or assaulting the dog, or (iii) was committing or attempting to commit a crime. No dog may be declared potentially dangerous or dangerous if the dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack. No dog may be declared potentially dangerous or dangerous if an injury or damage was sustained by a domestic animal which, at the time of the injury or damage, was teasing, tormenting, abusing or assaulting the dog. No dog may be declared potentially dangerous or dangerous if injury or damage to a domestic animal was sustained while the dog was working as a hunting dog, herding dog or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury was appropriate to the work of the dog.

(e) Upon designating a dog as a dangerous dog or a potentially dangerous dog, the Court shall impose the restrictions on the owner of such dog as set forth in this Article and may impose such additional restrictions on the respondent as are appropriate under the circumstances of the case. The Court shall reduce such restrictions to writing and have them served on the

respondent.

(f) It shall be unlawful for any person who is subject to any such restrictions to fail to comply with such restrictions.

(g) It shall be unlawful for any person who has been served with a citation to appear in City Court for the purpose of determining whether such person's dog should be designated as a potentially dangerous dog or dangerous dog to transfer ownership of such dog until after the City Court has issued a ruling on such a citation. It shall be unlawful for any person whose dog has been designated as a potentially dangerous dog or dangerous dog to transfer ownership of such dog to another person without (1) having advised such other person that the dog has been designated as a potentially dangerous dog or dangerous dog and (2) having advised such other person in writing of the restrictions that have been placed upon such dog.

Section 10-85. Notice of Designation.

Within ten (10) working days after a hearing conducted pursuant to this Article, the owner or keeper of the dog, if absent from the hearing, shall be notified by the City Court in writing of the decision of the Court and of any restrictions imposed upon the respondent, either personally through MAC or by first-class mail, postage prepaid. If a dog is declared to be potentially dangerous or dangerous, the owner or keeper shall comply with all restrictions imposed by this article and by the City Court.

Section 10-86. Impoundment and Abatement of Potentially Dangerous Dog or Dangerous Dog.

(a) If upon investigation it is determined by the Animal Services officer or law enforcement officer that probable cause exists to believe a dog poses an immediate threat to public safety, then the Animal Services officer or law enforcement officer may immediately seize and impound the dog pending a hearing to be held pursuant to this article. At the time of an impoundment pursuant to this subsection or as soon as practicable thereafter, the officer shall serve upon the owner or custodian of the dog a notice of a hearing to be held pursuant to this article to declare the dog dangerous or potentially dangerous.

(b) The City's Agent, any Animal Services officer and/or any Police Officer may impound any potentially dangerous dog or dangerous dog if the Animal Services officer has reasonable cause to believe that any of the mandatory restrictions upon such dog are not being followed if the failure to follow such restrictions would likely result in a threat to public safety. The owner or custodian of a potentially dangerous dog or dangerous dog shall surrender such a dog to any Animal Services or law enforcement officer upon demand. In the event such a dog is impounded, the Animal Services officer shall serve a citation upon the owner of such dog for violation of the provisions of this chapter.

(c) If a dog has been impounded pursuant to subsection (a) or subsection (b), the

City's Agent may permit the dog to be confined at the owner's expense in a veterinary facility pending a hearing pursuant to this chapter, provided that such confinement will ensure the public safety. Notwithstanding any other provision of this chapter, the daily boarding fee for a dog impounded pursuant to subsection (a) or subsection (b) shall be ten dollars (\$10.00).

(d) No dog that has been designated by the Court as a dangerous dog or potentially dangerous dog may be released by the City's Agent and/or by the McKamey Animal Center or a veterinarian until the owner has paid all veterinary costs and all other fees and costs of the McKamey Animal Center that are normally charged to an owner prior to redemption of the animal. If the owner fails to pay such fees and costs and take possession of the dog within ten (10) days of the owner's receipt of notice of the designation of the dog as a dangerous dog or potentially dangerous dog, the dog shall be deemed to have been abandoned and may be disposed of by the City's Agent and/or the McKamey Animal Center. Euthanasia or surrender to the City's Agent and/or the McKamey Animal Center of such a dog does not free the owner of responsibility for all cost incurred up to and including the date of the euthanasia or surrender.

Section 10-87. Possession Unlawful Without Proper Restraint; Failure to Comply With Mandatory Restrictions.

It is unlawful for a person to have the custody of or own or possess a potentially dangerous dog or a dangerous dog that is not properly restrained. It is unlawful for a person to have the custody of or own or possess a potentially dangerous dog or a dangerous dog unless such person is in full compliance with all restrictions placed upon such person by the Court that has designated such dog as a potentially dangerous dog or a dangerous dog.

Title 10, Chapter 88. Mandatory Restrictions on Potentially Dangerous Dogs.

Once the dog is designated as a potentially dangerous dog by the Red Bank City Court and/or by the Chattanooga City Court and/or by any other local or non-local court of competent jurisdiction, the following shall be restrictions are mandatory upon the owner or custodian of such dog:

(a) The dog must be kept indoors or confined on the owner's or keeper's property by a fence (other than an "electronic fence") capable of confining the dog or by a proper enclosure;

(b) The owner must allow inspection of the dog and its enclosure by the City's Agent and/or by the McKamey Animal Center and/or any person authorized pursuant to Section 10-8 and or 10-9 of this Ordinance, and must produce, upon demand, proof of compliance with such restrictions;

(c) The dog shall wear a collar and/or tag that visually identifies the dog as being potentially dangerous (purchased through the City's Agent or McKamey Animal Center);

(d) In the event that the owner or custodian of the dog is a tenant on real property

where the dog is being kept, the owner or custodian must obtain written permission, to be filed with the City's Agent and/or McKamey Animal Center, to keep the dog on certain specified premises from the landlord or property owner;

(e) The owner and dog must attend and complete a course on commonly accepted dog obedience methods approved by the City's Agent and/or by McKamey Animal Center; and

(f) The owner and dog must attend and successfully complete an American Kennel Club sponsored and authorized canine good citizenship course and test within a time specified by the Court;

(g) The dog must be spayed or neutered at the owner's expense; and

(h) An identification microchip must be implanted in the dog, with the serial number of the microchip supplied by the City's agent and/or McKamey Animal Center.

The Court may impose additional restrictions that the Court deems necessary.

Section 10-89. Mandatory Restrictions on Dangerous Dogs.

a) If the dog is designated as a dangerous dog by the Red Bank City Court and/or by the Chattanooga City Court or any other local or non-local court of competent jurisdiction, the owner or custodian of such dog shall comply with the following restrictions:

(1) The dog must be kept in a proper enclosure if the dog is maintained unattended out-of-doors; such proper enclosure must be enclosed within an outer fence, and the outer perimeter of the proper enclosure must be no less than five feet from the outer fence;

(2) The owner must allow inspection of the dog and its enclosure by the City's Agent and/or the McKamey Animal Center and must produce, upon demand, proof of compliance with the restrictions set forth in this section and any additional restrictions imposed by the City Court;

(3) In the event that the owner or custodian of the dog is a tenant on real property where the dog is being kept, the owner or custodian must obtain written permission, to be filed with the City's Agent and/or McKamey Animal Center, to keep the dog on certain specified premises from the landlord or property owner;

(4) The owner and dog must attend and complete a training class and/or behavior modification course approved by the City's Agent and/or the McKamey Animal Center that is designed to teach the owner how to deal with, correct, manage and/or alter the problem behavior;



- (5) A sign having reflective letters and backing with letters measuring at least 1.5 inches in width and 1.5 inches in height and reading "Beware of Dangerous Dog" shall be posted in a conspicuous place at all entrances to the premises on or within which such dog is kept; The cost of the sign shall be the sole responsibility of the dog owner;
- (6) A dangerous dog shall not be permitted to leave the premises of the owner unless such dog is properly restrained and humanely muzzled for protection of persons and other animals;
- (7) A dangerous dog may never, even with the owner present, be allowed to be unrestrained on property that allows the dog direct access to the public;
- (8) The owner of a dangerous dog shall not permit such a dog to be chained, tethered or otherwise tied to any inanimate object such as a tree, post or building, inside or outside of its own separate enclosure;
- (9) Such dog shall be photographed by the City's Agent and/or the McKamey Animal Center for future identification purposes;
- (10) Neutering or spaying of the dog;
- (11) Implantation of an identification microchip in such dog; the serial number of the identification microchip must be supplied to the City's Agent and/or the McKamey Animal Center;
- (12) Requiring the owner of the animal or owner of the premises on which the animal is kept to obtain and maintain liability insurance in the amount of one hundred thousand dollars (\$100,000.00) and to furnish a certificate of insurance;
- (13) Maintaining and updating annually a record maintained with MAC that lists the dog owner(s) or agent contact information, emergency contact persons and phone numbers, veterinarian, landlord and/or property owner contact information, property/liability insurance carrier, vaccination, licensing and/or permit number, photo of the animal and any other information deemed necessary by the City's Agent and/or the McKamey Animal Center;
- (14) Samples preserved for possible DNA identification which must be delivered to the City's Agent and/or the McKamey Animal Center;

(15) The wearing of a collar and/or tag that visually identifies the dog as being dangerous (purchased through the City's Agent and/or McKamey Animal Center);

(16) Notification in writing to the City's Agent and/or McKamey Animal Center of the location of the dog's residence, temporary or permanent, including prior notice of plans to move the dog to another residence within the City or outside the City and/or to transfer ownership of the dog; and

(17) Any other reasonable requirement specified by the City Court or any other local or non-local court of competent jurisdiction.

(b) The cost of all such restrictions must be paid by the owner.

Section 10-90. Removal of Designation of Potentially Dangerous Dog.

If there are no additional instances of the behavior described in Sec. 10-84 within 18 months of the date of designation as a potentially dangerous dog, the dog shall automatically be removed from the list of potentially dangerous dogs. The dog may be, but is not required to be, removed from the list of potentially dangerous dogs prior to the expiration of the 18-month period if the owner or keeper of the dog demonstrates to the City's Agent and/or the McKamey Animal Center that changes in circumstances or measures taken by the owner or keeper, such as training of the dog, confinement, etc., have mitigated the risk to the public safety; in such event, the owner or the City's Agent and/or the McKamey Animal Center may petition the City Court to remove such designation.

Section 10-91. Change of Ownership, Custody Or Location Of Dog; Death of Dog.

(a) The owner or custodian of a dangerous dog or potentially dangerous dog who moves or sells the dog, or otherwise transfers the ownership, custody or location of the dog, shall, at least fifteen days prior to the actual transfer or removal of the dog, notify the City's Agent and/or the McKamey Animal Center in writing of the name, address and telephone number of the proposed new owner or custodian, the proposed new location of the dog, and the name and description of the dog.

(b) The owner or custodian shall, in addition to the above, notify any new owner or custodian of a dangerous dog or potentially dangerous dog in writing regarding the details of the dog's record and the terms and conditions for confinement and control of the dog. The transferring owner or custodian shall also provide the City's Agent and/or the McKamey Animal Center with a copy of the notification to the new owner or custodian of his or her receipt of the original notification and acceptance of the terms and conditions. The City's Agent and/or the McKamey Animal Center may impose different or additional restrictions or conditions upon the new owner or custodian.

(c) If a dangerous dog or potentially dangerous dog should die, the owner or custodian shall notify the City's Agent and/or the McKamey Animal Center no later than twenty-four (24) hours thereafter and, upon request, from the City's Agent and/or the McKamey Animal Center shall produce the animal for verification or evidence of the dog's death that is satisfactory to the City's Agent and/or the McKamey Animal Center.

(d) If a dangerous dog or potentially dangerous dog escapes, the owner or custodian shall immediately notify the City's Agent and/or the McKamey Animal Center and make every reasonable effort to recapture the escaped dog to prevent injury and/or death to humans or domestic animals.

(e) The following persons must notify the City's Agent and/or the McKamey Animal Center when relocating a dog to Red Bank, even on a temporary basis:

- (1) the owner of a potentially dangerous or dangerous dog that has been designated as such by another lawful body other than the City of Red Bank; and
- (2) the owner of a dog that has had special restrictions placed against it by any humane society or governmental entity or agency other than the City of Red Bank based upon the behavior of the dog.

No such designation as a dangerous dog or potentially dangerous dog or any similar such designation shall be recognized by the City of Red Bank if such designation is based solely on the breed of the dog. Such owner is subject to the restrictions set forth in this chapter.

#### Section 10-92. Unlawful use of a dog.

(a) It shall be unlawful for a person to make use of a dog in the commission or furtherance of any criminal act in the city.

(b) Upon a finding of violation, the city court upon request shall order the dog forfeited and/or destroyed.

### ARTICLE X. GUARD DOGS.

#### Section 10-93. Guard Dog Purveyor; License; Fees.

(a) It is unlawful for any person, firm or corporation to supply guard dogs to the public without a valid license so to do issued to said person, firm or corporation by the City's Agent and/or the McKamey Animal Center. Only a person who complies with the requirements of this chapter and such rules and regulations of the City's Agent and/or McKamey Animal Center as may be adopted pursuant hereto shall be entitled to receive and retain such a license.

Licenses shall not be transferable and shall be valid only for the person and place for which issued. Said licenses shall be valid for one year from date of issue.

(b) The fee for such license shall be seventy five dollars (\$75.00) per year, to be renewed annually.

Section 10-94. Guard Dog Purveyor; License; Application; Contents.

Any person desiring to supply guard dogs to the public shall make written application for a license on a form to be provided by the City's Agent and/or the McKamey Animal Center. Such application shall be filed with the City's Agent and/or the McKamey Animal Center and shall include the following:

(a) A legal description of the premises or the business address of the office from which said applicant desires to supply guard dogs;

(b) A statement of whether the applicant owns or rents the premises to be used for the purpose of purveying guard dogs. If the applicant rents the premises, the application shall be accompanied by a written statement of acknowledgment by the property owner that the applicant has the property owner's permission to purvey guard dogs on the premises for the duration of the license; and

(c) A written acknowledgment by the applicant that prior to the actual commercial sale or purveyance of any and all guard dogs the licensee shall coordinate with the City Agent and/or the McKamey Animal Center in properly marking the guard dog and in notifying all customers of the guard dog purveyor that the customer is required to register the guard dog and pay the appropriate registration fee to the City of Red Bank prior to the animal performing guard dog functions.

Section 10-95. Guard Dog Trainer; License; Application; Contents.

Any person desiring to train dogs as guard dogs shall make written application for a license on a form to be provided by the City's Agent and/or the McKamey Animal Center. All such applications shall be filed with the City's Agent and/or the McKamey Animal Center and shall contain the following:

(a) A legal description or business address of the premises at which the applicant desires to train the guard dogs;

(b) A statement of whether the applicant is self-employed or a member of a business, firm, corporation or organization which trains guard dogs. If the applicant is a member of such a business, firm, corporation or organization, the applicant shall state the name of said entity and shall provide the name of the major executive officer of said entity;

(c) If the premises at which the applicant proposes to train dogs as guard dogs is rented, the application must be accompanied by a written statement of acknowledgment from the property owner that the applicant has the owner's permission to carry on the activity of guard dog training at said location for the duration of the license; and

(d) The fee for such license shall be fifty dollars (\$50.00) per year, to be renewed annually.

Section 10-96. Guard Dog; Registration; Annual Fee; Other Requirements.

(a) All persons using dogs as guard dogs shall register the dogs with the City's Agent and/or the McKamey Animal Center. Said registrations shall be valid for one year and must be renewed annually. The City's Agent and/or the McKamey Animal Center shall issue a tag which shall be affixed on the guard dog in such a manner so as to be readily identifiable. Such registration shall be filed with the City's Agent and/or the McKamey Animal Center and shall include the following:

(1) A legal description or business address of the premises which the applicant desires to employ a registered guard dog to prevent unauthorized intrusion;

(2) A statement whether the applicant owns or rents the premises to be guarded. If the applicant rents the premises, the application must be accompanied by a written statement of acknowledgment from the property owner that the applicant has the owner's permission to use a guard dog on the premises to prevent unauthorized intrusion for the duration of the registration;

(3) A description of the guard dog for purposes of identification;

(4) Acknowledgment by the applicant of whether the guard dog has been trained as a guard dog to exhibit hostile propensities;

(5) Acknowledgment by the applicant that the premises to be guarded has devices, such as fencing, to prevent general access by the public during those times the guard dog is used for purposes of protecting said premises and persons from unauthorized intrusion. Said acknowledgment shall contain a statement that the premises is properly signed to forewarn the public of the presence of a guard dog; and

(6) Acknowledgment by the applicant that the guard dog will be maintained in such a manner as to insure the safety of the public and the welfare of the animal.

(b) The fee for registering a guard dog shall be seventy-five dollars (\$75.00) per year, to be renewed annually.

(c) All registered guard dogs shall be implanted with an identifying microchip as directed by the City's Agent and/or the McKamey Animal Center.

(d) All registered guard dogs shall wear a specific dog tag as directed by the City's Agent and/or the McKamey Animal Center.

(e) The owner of any property on which a guard dog is located shall post signs in conspicuous places at all entrances to such property with reflective letters a minimum of two inches and a maximum of ten inches in height stating "Beware of Guard Dog on the Property". Such sign shall also have a telephone number for law enforcement officers or firefighting personnel to call in an emergency situation or other situation in which the dog owner's or handler's presence is required.

#### Section 10-97. Inspections.

The City's Agent, and/or the director of the McKamey Animal Center or his authorized representative shall annually inspect all premises which are the subject of the licenses and registrations required herein prior to the issuance of said licenses and/or registrations. Said inspections shall include, but not be limited to, a verification that adequate measures are being taken to protect the health, welfare and safety of the general public and to insure the humane treatment of the guard dogs. If the premises are deemed inadequate, the City's Agent and/or the McKamey Animal Center shall direct the applicant to make such changes as are necessary before the license or registration is issued or renewed. The City's Agent and/or the director of the McKamey Animal Center may make such routine periodic inspections of a licensee's premises or the premises of an area guarded by a registered guard dog for the purpose of enforcing the provisions of this chapter.

#### Section 10-98. Limitations.

The provisions of this article shall not apply to any facility possessing or maintaining guard dogs which is owned, operated or maintained by any city, county, state or the federal government; provided, private parties renting or leasing public facilities for commercial purposes as specified in this chapter shall not be exempt.

#### Sections 10-99 - 101. Reserved.

### ARTICLE XI. MISCELLANEOUS.

#### Section 10-102. Penalty for violations.

Any person violating the provisions of this chapter shall be subject to a civil penalty or

fine of not less than twenty (\$20.00) nor more than fifty dollars (\$50.00) for each violation.

#### Section 10-103. Rabies Control.

(1) Every animal which bites a person shall be promptly reported to the City's Agent and/or the McKamey Animal Center, and shall thereupon be secured quarantined at the direction of the City's Agent and/or the McKamey Animal Center for a period of ten (10) days, and shall not be released from such quarantine except by written permission of the ASO Supervisor. At the discretion of the City's Agent and/or the McKamey Animal Center, such quarantine may be on the premises of the owner, at the shelter designated as the city animal shelter, or at the owner's option and expense, in a hospital of his choice. In the case of stray animals, or in the case of animals whose ownership is not known, such quarantine shall be at the shelter designated as the city animal shelter. Any conflict with State law of these provisions shall be controlled by such state laws.

The owner, upon demand made by the City's Agent and/or the McKamey Animal Center, shall forthwith surrender any animal which has bitten a human, or which is suspected as having been exposed to rabies, for a supervised quarantine, the expense of which shall be borne by the owner. The animal may be reclaimed by the owner, if adjudged free of rabies, upon payment of the fees set forth in this Ordinance and upon compliance with the licensing provisions set forth in this Ordinance.

When an animal under the quarantine has been diagnosed as being rabid or is suspected by a licensed veterinarian of being rabid and dies while under such observation, the City's Agent and/or the McKamey Animal Center shall immediately send the head of such animal to the state health department for pathological examination, and shall notify the proper public health officer of any reports of human contact, and of the diagnosis made of the suspected animal.

When one or both reports give a positive diagnosis of rabies, the City's Agent and/or the McKamey Animal Center shall impose a city-wide quarantine for a period of thirty (30) days, and upon the invoking of such quarantine, no animal shall be taken into the streets, or permitted to be in the streets, during such period of quarantine.

During such period of rabies quarantine as herein mentioned, every animal bitten by an animal adjudged to be rabid, shall be forthwith destroyed, or at the owner's option and expense, shall be treated for rabies infection by a licensed veterinarian, or held under thirty (30) days quarantine by the owner in the same manner as other animals are quarantined.

In the event there are additional positive cases of rabies occurring during the period of the quarantine, such period of quarantine may be extended for an additional six (6) months.

No person shall kill, or cause to be killed, any rabid animal, any animal suspected of having been exposed to rabies, or any animal biting a human, except as herein provided, nor remove same from the city limits without written permission from the City's Agent and/or the

McKamey Animal Center.

The carcass of any dead animal exposed to rabies shall upon demand be surrendered to the City's Agent and/or the McKamey Animal Center.

The City's Agent and/or the McKamey Animal Center shall direct the disposition of any animal found to be infected with rabies.

No person shall fail or refuse to surrender any animal for quarantine or destruction as required herein when demand is made therefor by the City's Agent and/or the McKamey Animal Center.

Any conflict with State law of this provision shall be controlled by such State law.

Section 10-104. Physicians to report bite cases. It shall be the duty of every physician, or other practitioner, to report to the City's Agent and/or the McKamey Animal Center the names and addresses of persons treated for bites inflicted by animals, together with such other information as will be helpful in rabies control.

Section 10-105. Veterinarians to report rabies suspects. It shall be the duty of every licensed veterinarian to report to the City's Agent and/or the McKamey Animal Center his diagnosis of any animal observed by him as a rabies suspect.

Section 10-106. Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Section 10-107. Other Laws Not Affected.

Nothing in this chapter shall affect the authority of any law enforcement officer to respond appropriately to any situation in which there is an imminent threat by an animal to the safety of any person. This chapter shall not prohibit the seizure or impoundment of dogs as evidence as provided for under any other provision of law, nor shall any other laws, whether local or state, be affected by this chapter.

SECTION 2. This Ordinance shall take effect from and after the date of its final passage, the health, safety and welfare of the citizens of the City of Red Bank requiring it.

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MAYOR



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CITY RECORDER

April 2, 2019  
PASSED ON FIRST READING

April 16, 2019  
PASSED ON SECOND AND FINAL READING

APPROVED AS TO FORM:

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CITY ATTORNEY

ORDINANCE NO. 19-1153

AN ORDINANCE TO AMEND TITLE 11, CHAPTER 6 OF THE OF THE CITY OF RED BANK, TENNESSEE, RED BANK CITY CODE, ENTITLED "FIREARMS, WEAPONS AND MISSILES".

**WHEREAS**, Tennessee Code Annotated 39-17-1314 preempts the field of the regulation of firearms and provides only limited authority to municipalities to enact any such regulations; and

**WHEREAS**, the current language in Title 11, Chapter 6, Section 11-601 et seq. of the City of Red Bank Municipal Code is in conflict with the above referenced statute; and

**WHEREAS**, any dangerous or injurious conduct or actions relative to Section 11-502 are otherwise prohibited by state law; and

**WHEREAS**, Tennessee Code Annotated 39-17-1311 et seq. establishes statutory authorities and requirements for carrying weapons in public parks, playgrounds, civic centers and other public recreational buildings and grounds; and

**WHEREAS**, Tennessee Code Annotated 39-17-1359 et seq. establishes when handgun carry permit holders shall be restricted from possession of firearms on City owned properties;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RED BANK, TENNESSEE, THAT:

SECTION 1. Title 11, Chapter 6 of the Red Bank City Code shall be deleted in its entirety and shall be replaced with the following language:

**CHAPTER 6 - FIREARMS, AIR RIFLES, WEAPONS AND MISSLES**

- 11-601 Air Rifles, etc.
- 11-602 Throwing Missiles
- 11-603 Discharge of firearms
- 11-604 Hunting
- 11-605 Possession of Firearms on City owned Properties

11-601. **Air rifles, etc.** It shall be unlawful for any person in the municipality to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, compressed gas, or other force-producing means or method. (1975 Code, § 10-213)

11-602. **Throwing missiles.** It shall be unlawful for any person maliciously to throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1975 Code, § 10-214)

11-603. **Firearms.** It shall be unlawful for any person to discharge firearms within the corporate limits of the City of Red Bank, except when and where the discharge of a firearm is expressly authorized or permitted by state law and/or the regulations of the Tennessee Wildlife Commission.

11-604. **Hunting.** It shall be unlawful to hunt on any property owned, leased or otherwise controlled by the City of Red Bank. Hunting on private property is controlled by and must comply with state law and/or the regulations of the Tennessee Wildlife Commission.

**11-605. Possession of firearms on City owned properties.** In accordance with TCA 39-17-1359, the following regulations shall be strictly enforced. Violations are punishable to the extent allowable under state law.

(1) Except as otherwise provided by state law, firearms shall be prohibited on any City owned or operated properties if in the possession of a person who does not hold an then currently have in such persons possession a valid handgun carry permit issued or recognized by the state of Tennessee.

(2) In general, persons who hold and then currently have in such person's possession, a valid handgun carry permit pursuant to TCA 39-17-1351 and shall be able to lawfully possess a firearm on City owned property except as herein below expressly prohibited or may otherwise be prohibited by state law and of action of the property owners or lawful lessee.

(3) The City may restrict possession of firearms by a handgun carry permit holder if the following are provided at each public entrance to the property:

- a. Metal detection devices;
- b. At least one (1) law enforcement or private security officer who has been adequately trained to conduct inspections of persons entering the property by use of metal detection devices; and
- c. That each person who enters the property through the public entrance when the property is open to the public and any bag, package, and other container carried by the person is inspected by a law enforcement or private security officer or an authorized representative with the authority to deny entry to the property.

(4) The possession of firearms, including by a handgun carry permit holder, is prohibited at the following locations:

- a. In the immediate vicinity of any City owned athletic field, park, or other similar public place during any school sponsored athletic event or other school-related activity;
- b. Buildings in which judicial proceedings take place including the Red Bank City Hall, regardless of whether a judicial proceeding is in progress;
- c. Buildings that contain a law enforcement agency including the Red Bank Police and Fire Department buildings;

Section 2. Every section, sentence, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid

by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

Section 3. This Ordinance shall take effect from and after the date of its passage upon second and final reading, the welfare of the citizens of the City of Red Bank requiring it.

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MAYOR OF RED BANK, TENNESSEE

ATTEST:

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CITY RECORDER

**April 16, 2019**

PASSED ON FIRST READING

**May 7, 2019**

PASSED ON SECOND AND FINAL READING

APPROVED AS TO FORM:

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CITY ATTORNEY

**ORDINANCE NO. 19-1154**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO AMEND THE FY 2019 OPERATING BUDGET YEAR END APPROPRIATION OVERAGES**

**WHEREAS**, the City of Red Bank has the FY 2019 Operating Budget appropriated through Ordinance #18-1123; and

**WHEREAS**, Section 3 of the Ordinance states that at the end of the fiscal year, the Finance Director is authorized to transfer funds as necessary in order that budgeted appropriations not be exceeded in each Department and that the transfer of funds shall not result in an increase in the total Fiscal Year 2019 Budget; and

**WHEREAS**, it is necessary for the City of Red Bank to request Commission approval to increase the total funding in the FY 2019 Operating Budget for items which have exceeded budgeted appropriations, were not anticipated, or are carry-over items from the previous fiscal year; and

**WHEREAS**, funding is available from various sources which will balance the increase in expenditure appropriations.

**NOW, THEREFORE, BE IT ORDAINED** by the Commission of the City of Red Bank, Tennessee, as follows:

SECTION 1. That the FY 2019 Operating Budget be and is hereby amended to increase the revenue and expenditure appropriations as provided:

**GENERAL FUND**

**REVENUES**

Grant Funding	\$ 288,592.00
Loan Proceeds	\$ 2,185,000.00
Fund Balance	\$ 272,414.00
<b>TOTAL REVENUES</b>	<b><u>\$ 2,746,006.00</u></b>

**EXPENDITURES**

Administration / Finance	\$ 109,666.00
Fire	\$ 228,400.00
Police	\$ 169,700.00
Public Works	\$ 2,238,240.00
<b>TOTAL EXPENDITURES</b>	<b><u>\$ 2,746,006.00</u></b>

**DRUG FUND**

**REVENUES**

Fund Balance	\$ 55,098.00
<b>TOTAL REVENUES</b>	<b><u>\$ 55,098.00</u></b>

**EXPENDITURES**

Motor Vehicle	\$55,098.00
<b>TOTAL EXPENDITURES</b>	<b><u>\$ 55,098.00</u></b>

***State Street Aid***  
**REVENUES**

Loan Proceeds	\$ 478,400.00
Fund Balance	\$ 119,600.00
<b>TOTAL REVENUES</b>	<b><u>\$ 598,000.00</u></b>

**EXPENDITURES**

Paving	\$ 500,000.00
Equipment	\$ 98,000.00
<b>TOTAL EXPENDITURES</b>	<b><u>\$ 598,000.00</u></b>

SECTION 2. This ordinance shall take effect upon the date of its passage upon second and final reading, the welfare of the citizens of the City of Red Bank requiring it.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Recorder

\_\_\_\_\_  
Approved on First Reading

\_\_\_\_\_  
Approved on Second Reading

Approved as to Form:  
  
\_\_\_\_\_  
City Attorney

**ORDINANCE NO. 19-1155**

AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE  
ADOPTING THE ANNUAL BUDGET AND TAX RATE FOR THE FISCAL YEAR  
BEGINNING JULY 1, 2019 AND ENDING JUNE 30, 2020

WHEREAS, *Tennessee Code Annotated* Title 9 Chapter 1 Section 116 requires that all funds of the State of Tennessee and all its political subdivisions shall first be appropriated before being expended and that only funds that are available shall be appropriated; and

WHEREAS, the Municipal Budget Law of 1982 requires that the governing body of each municipality adopt and operate under an annual budget ordinance presenting a financial plan with at least the information required by that state statute, that no municipality may expend any moneys regardless of the source except in accordance with a budget ordinance and that the governing body shall not make any appropriation in excess of estimated available funds; and

WHEREAS, the Board of Mayor and Commissioner's has published the annual operating budget and budgetary comparisons of the proposed budget with the prior year (actual) and the current year (estimated) in a newspaper of general circulation not less than ten (10) days prior to the meeting where the Board will consider final passage of the budget.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF MAYOR AND COMMISSIONER'S OF THE CITY OF RED BANK, TENNESSEE AS FOLLOWS:

SECTION 1: That the governing body projects anticipated revenues from all sources and appropriations planned expenditures for each department, boards, office or other agency of the municipality, herein presented together with the actual annual receipts and expenditures of the last preceding fiscal year and the estimated annual expenditures for the current fiscal year, and from those revenues and unexpected and unencumbered funds as follows for fiscal year 2020, and including the projected ending balances for the budget year; the actual ending balance for the most recent ended fiscal year and the estimated ending fund balances for the current fiscal year:

GENERAL FUND	Actual FY 2018	Estimated FY 2019	Budget FY 2020
<b><u>Cash Receipts</u></b>			
Local Taxes	\$ 4,524,309.00	\$ 5,011,241.00	\$ 4,822,000.00
State Shared Taxes	\$ 1,052,284.00	\$ 1,076,639.00	\$ 993,000.00
Other Revenue Sources	\$ 476,429.00	\$ 430,553.40	\$ 329,298.00
<b>Total Cash Receipts</b>	<b>\$ 6,053,022.00</b>	<b>\$ 6,518,433.40</b>	<b>\$ 6,144,298.00</b>
<b><u>Appropriations</u></b>			
Judicial	\$ 134,872.00	\$ 142,784.00	\$ 142,703.00
Legislative	\$ 47,214.00	\$ 66,589.00	\$ 47,210.00
Finance & Administration	\$ 622,612.00	\$ 664,514.12	\$ 642,018.00
Insurance	\$ 796,338.00	\$ 836,863.00	\$ 844,900.00

Police	\$ 1,843,821.00	\$ 1,833,168.00	\$ 1,900,539.00
Fire	\$ 1,090,841.00	\$ 1,368,880.00	\$ 1,202,160.00
Public Works	\$ 1,155,670.00	\$ 2,920,809.00	\$ 1,713,095.00
Parks	\$ 225,490.00	\$ 93,104.00	\$ 150,175.00
<b>Total Appropriations</b>	<b>\$ 5,916,858.00</b>	<b>\$ 7,926,711.12</b>	<b>\$ 6,642,800.00</b>
<b>Surplus / (Deficit)</b>	<b>\$ 136,164.00</b>	<b>\$ (1,408,277.72)</b>	<b>\$ (498,502.00)</b>
Beginning Fund Balance	\$ 5,410,458.00	\$ 5,546,622.00	\$ 4,138,344.28
Ending Fund Balance	\$ 5,546,622.00	\$ 4,138,344.28	\$ 3,639,842.28

## STATE STREET AID

Actual  
FY 2018

Estimated  
FY 2019

Budget  
FY 2020

### Cash Receipts

State Highway and Street Fund	\$ 378,140.00	\$ 404,021.00	\$ 390,000.00
Interest Earnings	\$ 7,757.00	\$ 21,876.00	\$ 5,000.00
Insurance Recovery	\$ 14,727.00	\$ 10,811.00	\$ -
<b>Total Cash Receipts</b>	<b>\$ 400,624.00</b>	<b>\$ 436,708.00</b>	<b>\$ 395,000.00</b>

### Appropriations

Operation	\$ 135,110.00	\$ 144,988.00	\$ 664,060.00
Debt Service	\$ 115,608.00	\$ 57,371.00	\$ 178,102.00
Capital	\$ -	\$ 122,959.00	\$ 13,000.00
<b>Total Appropriations</b>	<b>\$ 250,718.00</b>	<b>\$ 325,318.00</b>	<b>\$ 855,162.00</b>
<b>Surplus / (Deficit)</b>	<b>\$ 149,906.00</b>	<b>\$ 111,390.00</b>	<b>\$ (460,162.00)</b>

Beginning Fund Balance	\$ 676,232.00	\$ 826,138.00	\$ 937,528.00
Ending Fund Balance	\$ 826,138.00	\$ 937,528.00	\$ 477,366.00

## SOLID WASTE

Actual  
FY 2018

Estimated  
FY 2019

Budget  
FY 2020

### Cash Receipts

Sanitation Charges	\$ 908,623.00	\$ 924,929.00	\$ 900,000.00
Interest Earnings	\$ 5,560.00	\$ 10,584.00	\$ 10,000.00
Insurance Recovery	\$ -	\$ -	\$ -
Other Revenue Sources	\$ -	\$ 4,756.00	\$ -
<b>Total Cash Receipts</b>	<b>\$ 914,183.00</b>	<b>\$ 940,269.00</b>	<b>\$ 910,000.00</b>

### Appropriations

Personnel	\$ 396,599.00	\$ 383,264.00	\$ 426,635.00
Operations	\$ 267,707.00	\$ 325,780.50	\$ 331,950.00
Debt Service	\$ 64,849.00	\$ -	\$ -
Capital	\$ 79,379.00	\$ 45,691.00	\$ 225,000.00
<b>Total Appropriations</b>	<b>\$ 808,534.00</b>	<b>\$ 754,735.50</b>	<b>\$ 983,585.00</b>
<b>Surplus / (Deficit)</b>	<b>\$ 105,649.00</b>	<b>\$ 185,533.50</b>	<b>\$ (73,585.00)</b>



Beginning Fund Balance	\$ 630,115.00	\$ 735,764.00	\$ 921,297.50
Ending Fund Balance	\$ 735,764.00	\$ 921,297.50	\$ 847,712.50

STORMWATER FUND	Actual FY 2018	Estimated FY 2019	Budget FY 2020
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**Cash Receipts**

Property Taxes (Prior Year)	\$ -	\$ -	\$ -
Interest / Penalty	\$ 936.00	\$ 1,199.00	\$ 500.00
Interest Earnings	\$ 2,161.00	\$ 5,189.00	\$ 800.00
Stormwater Fees	\$ 261,931.00	\$ 270,964.00	\$ 270,000.00
<b>Total Cash Receipts</b>	<b>\$ 265,028.00</b>	<b>\$ 277,352.00</b>	<b>\$ 271,300.00</b>

**Appropriations**

Personnel	\$ 131,532.00	\$ 139,866.00	\$ 118,471.00
Operations	\$ 110,879.00	\$ 113,644.00	\$ 128,935.00
Capital	\$ 22,520.00	\$ 31,650.00	\$ 160,000.00
<b>Total Appropriations</b>	<b>\$ 264,931.00</b>	<b>\$ 285,160.00</b>	<b>\$ 407,406.00</b>
<b>Surplus / (Deficit)</b>	<b>\$ 97.00</b>	<b>\$ (7,808.00)</b>	<b>\$ (136,106.00)</b>

Beginning Fund Balance	\$ 355,192.00	\$ 355,289.00	\$ 347,481.00
Ending Fund Balance	\$ 355,289.00	\$ 347,481.00	\$ 211,375.00

DRUG FUND	Actual FY 2018	Estimated FY 2019	Budget FY 2020
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**Cash Receipts**

Impound Fees	\$ 270.00	\$ 440.00	\$ 300.00
Drug Related Fines	\$ 10,107.00	\$ 10,872.00	\$ 7,000.00
Interest Earnings	\$ 1,123.00	\$ 1,287.00	\$ 500.00
Sale of Equipment	\$ 23,555.00	\$ 17,451.00	\$ 10,000.00
Insurance Recovery	\$ 12,600.00	\$ -	\$ -
Drug Seizures	\$ 78,907.00	\$ 45,184.00	\$ 25,000.00
<b>Total Cash Receipts</b>	<b>\$ 126,562.00</b>	<b>\$ 75,234.00</b>	<b>\$ 42,800.00</b>

**Appropriations**

Operations	\$ 31,179.00	\$ 4,755.00	\$ 7,065.00
Capital	\$ 130,377.00	\$ 62,538.00	\$ 10,440.00
<b>Total Appropriations</b>	<b>\$ 161,556.00</b>	<b>\$ 67,293.00</b>	<b>\$ 17,505.00</b>
<b>Surplus / (Deficit)</b>	<b>\$ (34,994.00)</b>	<b>\$ 7,941.00</b>	<b>\$ 25,295.00</b>

Beginning Fund Balance	\$ 126,714.00	\$ 91,720.00	\$ 99,661.00
Ending Fund Balance	\$ 91,720.00	\$ 99,661.00	\$ 124,956.00

IMPOUND FUND	Actual FY 2018	Estimated FY 2019	Budget FY 2020
<b>Cash Receipts</b>			
Impoundment Charges	\$ -	\$ 270.00	\$ -
Sale of Equipment	\$ 3,195.00	\$ 9,202.00	\$ 3,000.00
<b>Total Cash Receipts</b>	<b>\$ 3,195.00</b>	<b>\$ 9,472.00</b>	<b>\$ 3,000.00</b>
<b>Appropriations</b>			
Operations	\$ 3,361.00	\$ 1,632.00	\$ 2,360.00
Capital	\$ -	\$ -	\$ -
<b>Total Appropriations</b>	<b>\$ 3,361.00</b>	<b>\$ 1,632.00</b>	<b>\$ 2,360.00</b>
<b>Surplus / (Deficit)</b>	<b>\$ (166.00)</b>	<b>\$ 7,840.00</b>	<b>\$ 640.00</b>
Beginning Fund Balance	\$ 4,813.00	\$ 4,647.00	\$ 12,487.00
Ending Fund Balance	\$ 4,647.00	\$ 12,487.00	\$ 13,127.00

SEWER FUND	Actual FY 2018	Estimated FY 2019	Budget FY 2020
<b>Cash Receipts</b>			
Interest Earnings	\$ 281.00	\$ 753.00	\$ 50.00
Rent - Sewer Plant	\$ 7,395.00	\$ 8,413.00	\$ 8,413.00
Contributions from WWTa	\$ 492,204.00	\$ 492,204.00	\$ 492,204.00
<b>Total Cash Receipts</b>	<b>\$ 499,880.00</b>	<b>\$ 501,370.00</b>	<b>\$ 500,667.00</b>
<b>Appropriations</b>			
Operations	\$ 492,204.00	\$ 492,204.00	\$ 492,204.00
<b>Total Appropriations</b>	<b>\$ 492,204.00</b>	<b>\$ 492,204.00</b>	<b>\$ 492,204.00</b>
<b>Surplus / (Deficit)</b>	<b>\$ 7,676.00</b>	<b>\$ 9,166.00</b>	<b>\$ 8,463.00</b>
Beginning Fund Balance	\$ 34,380.00	\$ 42,056.00	\$ 51,222.00
Ending Fund Balance	\$ 42,056.00	\$ 51,222.00	\$ 59,685.00

SECTION 2: At the end of the fiscal year 2019; the governing body estimates fund balances or deficits as follows:

General Fund	\$3,639,842
State Street Aid Fund	\$477,366
Solid Waste Fund	\$847,713
Sewer Fund	\$59,685
Stormwater Fund	\$211,375
Drug Fund	\$124,956
Impound Fund	\$13,127

SECTION 3: That the governing body herein certifies that the condition of its sinking funds, if applicable, are compliant pursuant to its bond covenants, and recognizes that the municipality has outstanding bonded and other indebtedness as follows:

<b>Debt Principal</b>	<b>Interest Requirements</b>	<b>Debt Authorized and Unissued</b>	<b>Principal Outstanding at June 30</b>
\$ 46,000	\$ 531	\$ 0	\$ 2,231,000
\$ 91,000	\$ 12,196		
\$ 180,643	\$ 73,150		

SECTION 4: During the coming fiscal year (2020) the governing body has pending and planned capital projects with proposed funding as follows:

<b>Proposed Capital Projects</b>	<b>Proposed Amount Financed by Appropriations</b>	<b>Proposed Amount Financed by Debt</b>
\$ 700,000	\$ 700,000	\$ 0

SECTION 5: No appropriation listed above may be exceeded without an amendment of the budget ordinance as required by the Municipal Budget Law of 1982 T.C.A. Section 6-56-208. In addition, no appropriation may be made in excess of available funds except to provide for an actual emergency threatening the health, property or lives of the inhabitants of the municipality and declared by a two-thirds (2/3) vote of at least a quorum of the governing body in accord with Section 6-56-205 of the *Tennessee Code Annotated*.

SECTION 6: Money may be transferred from one appropriation to another in the same fund in an amount of up to \$1,000 by the Finance Director, subject to such limitations and procedures as set by Section 6-56-209 of the Tennessee Code Annotated. Any resulting transfers shall be reported to the governing body at its next regular meeting and entered into the minutes.

SECTION 7: A detailed financial plan will be attached to this budget and become part of this budget ordinance. In addition, the published operating budget and budgetary comparisons shown by fund with beginning and ending fund balances and the number of full time equivalent employees required by Section 6-56-206, *Tennessee Code Annotated* will be attached.

SECTION 8: There is hereby levied a property tax of \$1.39 per \$100 of assesses value on all real personal property.

SECTION 9: The annual operating and capital budget ordinance and supporting documents shall be submitted to the Comptroller of the Treasury or Comptrollers' Designee for approval if the City has debt issued pursuant to Title 9, Chapter 21, of the Tennessee Code Annotated, within fifteen (15) days of its adoption. This budget shall not become the official budget for the fiscal year until such budget is approved by the Comptroller of the Treasury or Comptroller's Designee, in accordance with Title 9, Chapter 21 of the Tennessee Code Annotated (the "Status"). If the Comptroller of the Treasury or Comptroller's Designee determines that the budget does not comply with the Statutes, the Governing Body shall adjust the estimates or make additional tax levies sufficient to comply with the Statutes or as directed by the Comptroller of the Treasury or Comptroller's Designee. If the City does not have such debt outstanding, it will file this annual operating and capital budget ordinance and supporting documents with the Comptroller of the Treasury or the Comptroller's Designee.

SECTION 10: All unencumbered balances of appropriations remaining at the end of the fiscal year shall lapse and revert to the respective fund balances.

SECTION 11: All ordinances or parts of ordinances in conflict with any provision of this ordinance are hereby repealed.

SECTION 12: This ordinance shall take effect July 1, 2019, the public welfare requiring it.

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Mayor

ATTESTED:

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City Recorder

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Approved on First Reading

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Approval on Second and Final Reading

Approved as to Form:

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City Attorney

ORDINANCE NO. 19-1156

AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE,  
AMENDING THE ZONING MAP TO REZONE 105 BRENTWOOD DRIVE, HAMILTON  
COUNTY TAX MAP PARCEL 109G-E-014, FROM R-1 RESIDENTIAL TO R-3  
RESIDENTIAL ZONE, SUBJECT TO CONDITIONS

WHEREAS *Tennessee Code Annotated* (TCA) § 13-7-201 allows municipal governments the authority to regulate land use through zoning of its jurisdictional territory; and

WHEREAS the Red Bank Municipal Planning Commission has certified zoning districts as provided for in TCA § 13-7-202; and

WHEREAS TCA §13-7-204 authorizes amendments to the municipal zoning map and provides for that process; and

WHEREAS the owners of the subject property, Larry Houston and Nancy Houston, have requested that their property be rezoned to R-3 Residential in order to authorize and facilitate usage of the property as a short term rental unit property as conditionally authorized by the Red Bank City Code; and

WHEREAS the legal description for said property is shown in Exhibit A as Lot 43 Hillsdale Subdivision as per plat in Plat Book 14, Page 70 in the Register's Office of Hamilton County, Tennessee and shown on the Hamilton County tax map in Exhibit B; and

WHEREAS the Planning Commission provided an opportunity to submit comments in favor of or against the proposed rezoning at an advertised public hearing held in conjunction with its regular meeting on May 16, 2019; and

WHEREAS the Planning Commission, in consideration of Neighborhood continuity and values issues, recommended approval but subject to the following conditions:

1. Any short-term rental unit operated on the subject property shall be owner-occupied, and
2. No Multi-family uses, such as a duplex, triplex, etc., or apartment or high density uses shall be allowed on the subject property, and
3. The R-3 Residential zoning of the subject property shall automatically revert to the R-1 Residential zoning if the operation of the short-term rental unit is discontinued or unlicensed for any period of twelve (12) months or more in any running 24 month period or in the event the property is attempted to be converted to or used as a duplex, triplex, apartment or other high density use.

WHEREAS the Planning Commission recommended rezoning of the subject property from R-1 to R-3 as it does not conflict with the goals of the 2020 Red Bank Land Use Plan; and; is adjacent to a C-3 zone and the requested/intended short term rental use and higher density uses;

WHEREAS the City Commission provided an opportunity to submit comments in favor of or against the proposed rezoning at an advertised public hearing, during its regularly schedule Commission Meeting on June 18, 2019; and

WHEREAS the City Commission finds that the proposed rezoning request would not have a negative impact on adjacent properties and is consistent with and promotes the goals of the Red Bank 2020 Land Use Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RED BANK, TENNESSEE, AS FOLLOWS:

Section 1. The Zoning Ordinances and Zoning Maps of this City are hereby amended by rezoning from R-1 Residential to R-3 Residential the property located at 105 Brentwood Drive, Hamilton County tax parcel number 109G-E-014, shown as Lot 43 in Plat Book 014 Page 070 in Exhibit A, subject to the following conditions.

1. Any short-term rental unit operated on the subject property shall be owner-occupied, and
2. No Multi-family uses, such as a duplex, triplex, etc., or apartment or high density uses shall be allowed on the subject property, and
3. The R-3 Residential zoning of the subject property shall automatically revert to the R-1 Residential zoning if the operation of the short-term rental unit is discontinued or unlicensed for any period of twelve (12) months or more in any running 24 month period or in the event the property is attempted to be converted to or used as a duplex, triplex, apartment or other high density use.

Section 2. Upon the adoption of this Ordinance, the Zoning maps of the City shall be amended and changed so as to reflect this rezoning.

BE IT FURTHER ORDAINED that every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

FINALLY, BE IT ORDAINED that this ordinance shall take effect from and after the date of its final passage and the signatures of the owners/applicants hereon accepting and acknowledging the limiting provisions and conditions hereof which shall necessarily occur within thirty (30) days of the passage hereof on second reading, and, failing which, this Ordinance shall be automatically and *ipso facto* VOID and of no further effect.

\_\_\_\_\_  
MAYOR OF RED BANK

\_\_\_\_\_  
CITY RECORDER

\_\_\_\_\_  
PASSED ON FIRST READING

\_\_\_\_\_  
PASSED ON SECOND READING

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

ACCEPTED AND AGREED AS TO CONDITION:

\_\_\_\_\_  
LARRY HOUSTON (date)  
Owner-Applicant

\_\_\_\_\_  
NANCY HOUSTON (date)  
Owner-Applicant

## EXHIBIT A. Legal Description

### Excerpt from Deed Book 8300 Page 0824

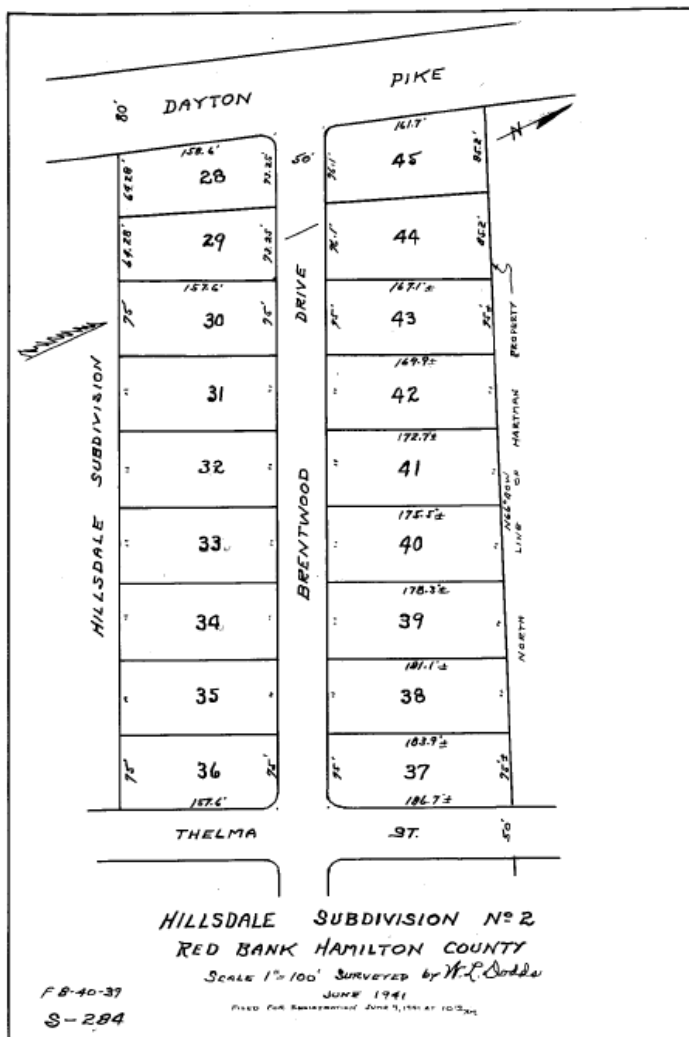
In the Third Civil District of Hamilton County, Tennessee: Lot 43, Hillsdale Subdivision No. 2, as shown by plat of record in Plat Book 14, page 70, in the Register's Office of Hamilton County, Tennessee.

Property commonly known as: 105 Brentwood Drive, Chattanooga, Hamilton County, Tennessee.

Being all of the same property conveyed by Substitute Trustee Deed recorded on February 2, 2007 of record in Book 8229, Page 588, Register's Office for Hamilton County, Tennessee.

TaxID: 109G E 014

### Plat Book 14 Page 70

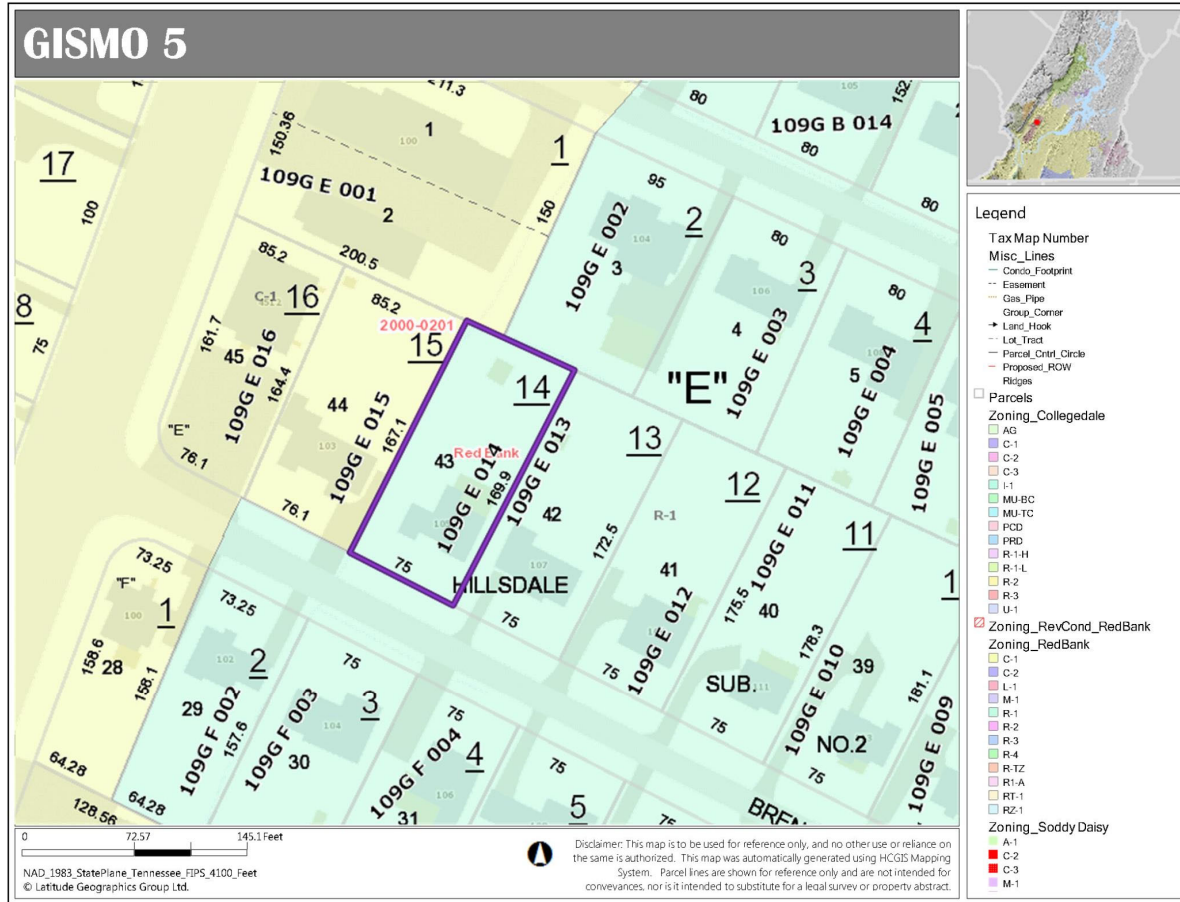


### Legal Description from Hamilton County Property Card

Address	105 Brentwood Drive
Tax Map No	109G E 014
Legal Description	LOT 43 HILLSDALE NO 2 PB 14 PG 70



# ORDINANCE 19-1156



## **ORDINANCE NO. 19-1157**

### **AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE TO AMEND ORDINANCE 18-1126 CODIFIED AT RED BANK CITY CODE TITLE 6, CHAPTER 1, SECTION 6-108, SUBPARTS (C)(1) AND (C)(2) WITH RESPECT TO AUTHORIZING THE CITY MANAGER TO DIRECTLY AUTHORIZE ACQUISITIONS THROUGH THE LESO PROGRAM WITHOUT PRIOR FORMAL APPROVAL BY THE CITY COMMISSION**

**WHEREAS**, effective as of August 7, 2018 the City adopted Ordinance 18-1126 authorizing the participation BY the City in the Title 10 United States Code Section 2576(a) Department of Defense Local Law Enforcement Services Program, also known as the “1033 Program” and/or the “LESO Program”; and

**WHEREAS**, the City, pursuant to the above referenced ordinance entered into an agreement with the State of Tennessee and with the Department of General Services thereof authorizing the participation by the City of Red Bank in the LESO Program; and

**WHEREAS**, the City, upon recommendation of the Police Chief and the City Manager finds it necessary and appropriate to recommend some changes to the internal procedures and protocol of the City of Red Bank as memorialized in Ordinance 18-1126 in order to facilitate the participation of the City in the LESO Program as deemed appropriate and necessary by the experience of the past twelve months; and

**WHEREAS**, the Chief of Police and the City Manager, upon consultation with the Commission in an open, advertised Work Session and Agenda Session recommend that the City Commission modify the terms of the City’s internal procedures and protocols by permitting the City Manager to approve and disapprove of certain requested acquisitions by the Police Department without preapproval; and

**WHEREAS**, the City Commission, as aforesaid, deems it necessary and appropriate to maintain its ultimate control in the possible, but not probable acquisition or consideration for acquisition of manned or unmanned aircraft, fixed or rotary winged aircraft, drones, unmanned aerial vehicles, wheeled vehicles, wheeled armored vehicles, armored vehicles of any sort, all-terrain vehicles utilizing any combination of wheels and/or tracks or trades, any specialized ammunition and/or any firearms or weapons other than previously authorized and approved police department issued service weapons, and/or explosives and/or pyrotechnics of any sort but to grant direct authority to the City Manager to directly approve more mundane and usual acquisitions or equipment supplies and “normal” ammunition and similar items as such may be available from time to time.

**NOW, THEREFORE BE IT ORDAINED** by the City Commission of the City of Red Bank Tennessee:

That Title 6, Chapter 1, Section 6-108 of the Red Bank City Code (Ordinance 18-1126), be and the same is hereby amended as follows:

SECTION 1. Presently existing Sections (C)(1) and (C)(1) is deleted in their entirety and there is substituted in this place new Sections (C)(1) and (C)(1)as follows:

(C)(1) Notwithstanding any other provisions set forth and as contained within the terms, provisions and conditions of said State Plan of Operations Between the State of Tennessee and the City of Red Bank, Tennessee, the Chief of Police shall not make any applications or requests for transfers of any personal property, equipment, commodities, vehicles, assets, expendables (such as ammunition) without the prior written approval of the City Manager and preceded by a written request prepared by the Chief of Police and submitted to the City Manager explaining the necessity and requesting authority and approval from the City Manager to make further application to the State of Tennessee / Department of Defense and providing a detailed rationale for such requested acquisition(s) together with a projected budget / cost benefit analysis with respect to any such acquisition, usage, oversight, maintenance and anticipated length of service of any and all such assets. For such acquisitions as are approved by the City Manager, the City Manager shall contemporaneously give written and or email NOTICE to the City Commission, either collectively or individually of the/each pending approved acquisition and a summary of the appropriateness and necessity or desirability of same.

(2) Provided further that no application shall be made to the Department of General Services for any manned or unmanned aircraft, fixed or rotary winged aircraft, drones, or unmanned aerial vehicles, wheeled armored vehicles, wheeled vehicles, wheeled vehicles of any sort, armored vehicles of any sort, all-terrain vehicles utilizing any combination of wheels and/or tracks and/or treads, any specialized weapons or ammunition and whether or not over or under .50 caliber ammunition (except for standard issue arms and/or ammunition for previously authorized police department issued service weapons), and explosives or pyrotechnics of any kind or nature, all as defined in the State Plan of Operations Between the State of Tennessee and the City of Red Bank as “Controlled Property,” without the express written approval, via duly adopted Resolution of the City Commission of the City of Red Bank, and then only after report of the City Manager detailing budgetary and potential liability issues and the City Manager’s recommendation with respect to each such requested acquisition.

SECTION 2. Ordinance 18-1126 is otherwise ratified and affirmed except as expressly provided hereinabove.

SECTION 3. Every section, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

SECTION 4. This Ordinance shall take effect from and after the date of its final passage the health, safety and welfare of the citizens of the City of Red Bank requiring it.

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Mayor

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City Recorder

August 20, 2019

Passed on First Reading

September 3, 2019

Passed on Second and Final Reading

Approved as to form:

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City Attorney

## ORDINANCE NO. 19-1158

**AN ORDINANCE IN THE CITY OF RED BANK, TENNESSEE IN ORDER TO REPEAL AND REPLACE TITLE 13, CHAPTER 2, SECTION 13-201 THROUGH SECTION 13-210 OF THE RED BANK CITY CODE WITH RESPECT TO ABANDONED AND/OR DISCARDED VEHICLES, MOTOR VEHICLES, BOATS AND/OR WATERCRAFT.**

WHEREAS, pursuant to Ordinance No. 98-765, the City of Red Bank has had in place for many years, an Ordinance and regulatory plan and scheme, which regulates, for the health, safety, benefit and well-being of the citizens of Red Bank, abandoned and/or non-operating automobiles, vehicles, motor vehicles, boats and other similar items of personal property; and

WHEREAS, recent and repeated occurrences and activities by residents and other persons within the City, compel the necessary re-evaluation of the increasing frequency of activities not necessarily covered with sufficient clarity with the current and in place regulations and ordinances of the City; and

WHEREAS, the City Commission deems it appropriate and necessary, after review, examination and observation of various practices and activities of certain residents and business operators within the City of Red Bank to clarify and expand the City's Ordinances related to abandoned, non-operated and discarded motor vehicles, vehicles, boats, water craft and similar means of conveyance.

NOW THEREFORE, the City Commission of the City of Red Bank, Tennessee hereby deems it necessary and appropriate to enact this Ordinance entitled ABANDONED, NON-OPERATING AND DISCARDED VEHICLES, MOTOR VEHICLES, BOATS, PERSONAL WATERCRAFT, FOUR WHEELERS, GOLF CARTS, ALL TERRAIN-VEHICLES AND SIMILAR MEANS OF CONVEYANCE.

SECTION 1: Title 13, Chapter 2, Section 13-201 through Section 13-210 are REPEALED in their entirety;

SECTION 2: There is enacted hereby Red Bank City Code Title 13, Chapter 2, Section 13-201 through 13-210, inclusive:

ABANDONED, NON-OPERATING AND DISCARDED VEHICLES, MOTOR VEHICLES, BOATS, WATER CRAFT, FOUR WHEELERS, GOLF CARTS, ALL TERRAIN-VEHICLES AND SIMILAR MEANS OF CONVEYANCES AS FOLLOWS:

**13-201. Abandoned and/or outside parking or storage of non-operating, partially dismantled or dismantled automobiles, motor vehicles, vehicles, motorcycles, wheeled or tracked vehicles, boats and personal water craft four wheelers, golf carts, all-terrain vehicles and unregistered vehicles declared a public nuisance.** In enacting this chapter the city commission of the City of Red Bank finds and declares that the accumulation and/or outside parking and/or outside storage and/or abandonment of wrecked, junked, partially dismantled and/or non-operating motor vehicles, vehicles, motorcycles, wheeled or tracked vehicles, golf carts, all-terrain vehicles, boats and personal water craft and unregistered vehicles and similar means of conveyance on public or private property in the City of Red Bank is and are in the nature

of rubbish and unsightly debris, violates, in many instances, the zoning regulations of the city, and constitute(s) a nuisance detrimental to the health, safety and welfare of the community in such that such conditions tend to interfere with the enjoyment of and reduce the value of public and private property, create fire hazards, serve as potential refuge for vermin and vectors, and create other health and safety hazards to the City of Red Bank. (as added by Ord. #98-765, March 1998, and amended by Ord. #13-997, Dec. 2013)

**13-202. Definitions.** The following definitions shall apply in the interpretation and enforcement of this chapter.

(1) “Abandoned motor vehicle” means a motor vehicle, motorcycle, all-terrain vehicle (ATV), golf cart or similar motorized or non-motorized means of conveyance and regardless of the number of wheels that is left unattended on public property for more than seven (7) days, or a motor vehicle that has remained illegally on public property for a period of more than forty-eight (48) hours, or a motor vehicle that has remained on private property without the consent of the owner or person in control of property for more than forty-eight (48) hours.

(2) “Boat” means a water craft or any kind, nature or character, including specifically personal water craft, designed and/or intended to float in water, and to carry persons and/or cargo for recreational or commercial uses and includes, without limitations trailers used for moving or transporting a boat or water craft.

(2)(a) “Non-operating automobiles or vehicle.” A vehicle, or various parts thereof, which is not reasonably presently capable of traveling along the ground, under its own power, by reason of being wrecked, scrapped, ruined, dismantled, partially dismantled, disassembled, without operating engine, transmission, or battery and/or without present ability to start and run for at least two (2) consecutive minutes under its own power and/or by reason of any single factor or combination of the above enumerated factors and/or which for any other factor or factors is not reasonably in operating condition.

(2)(b) “Non-operating boat or non-operating water craft” means any boat whether or not capable of floating and whether or not its engine or motor is capable of operation which is not capable of floating in water and moving on its own power and which for any reasons or combination of reasons is not capable of operating on the water as a BOAT.

(3) “Property.” Any real property, whether public or private, within the city which is not a street or highway, or a public right-of-way.

(4) “Properly Licensed Salvage Yard.” (Need definition)

(5) “Unregistered vehicle” and/or “unregistered boat or watercraft” which does not have and display current registration number and/or license tags (as may be applicable) for the State of Tennessee or a state or territory of the United States of America. Any vehicle or boat or water craft which does not have properly and lawfully displayed license tags and/or as may be applicable properly displayed current registration numbers from the State of Tennessee and/or from a state or territory of the United States of America and/or as to which the owner, registrant or person(s) in possession of said vehicle is unable to produce current valid registration documents from the State of Tennessee or a state or territory of the United States of America.

(5)(a) “Vehicle.” A machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides, and transport persons or property or pull machinery, and shall include without limitations, automobile, truck, trailer, motorcycle, tractor, buggy and wagon, all-terrain vehicles, “4-wheelers”, and golf carts. (1975 Code, § 9-701, as replaced by Ord. #98-765, March 1998, and amended by Ord. #13-997, Dec. 2013)

**13-203. Abandoning prohibited.** No person shall abandon any vehicle, boat or water craft and/or trailer related to same within the city and no person shall leave any motor, boat or personal water craft at any place within the city, for such time and under such circumstances as to cause such vehicle to reasonably appear to have been abandoned. (1975 Code, § 9-702, as replaced by Ord. #98-765, March 1998)

**13-204. Leaving non-operating and/or junked and/or partially dismantled vehicles, boats, water craft and/or vehicles of any time on the street.** No person shall leave any partially dismantled, non-operating, wrecked, dismantled, partially dismantled or junked vehicle, automobile, boat or water craft or any unregistered vehicle or boat or water craft or unregistered boat or water craft on any street, alley, or highway within the city, or on any public right-of-way or public property. (1975 Code, § 9-703, as replaced by Ord. #98-765, March 1998, and amended by Ord. #13-997, Dec. 2013)

**13-205. Allowing on property.** No person in charge or control of any public or private property within the city whether the owner, tenant, occupant, lessee, or otherwise, shall allow any partially or wholly dismantled or non-operating, wrecked, junked or discarded vehicle, boat, automobile or any unregistered vehicle, boat or water craft or unregistered boat or water craft or vehicle remain on such property or properties longer than ten (10) days, whether consecutive or not, in any one hundred eighty (180) day period, except that this section shall not apply with regard to any such vehicle or boat or water craft or parts thereof in an enclosed building; to a vehicle on the premises of a building enterprise operated in a property zoned in a lawful place and manner when necessary to operation of such business enterprise; or to a vehicle or boat in an appropriately enclosed storage place, or depository maintained in a properly licensed zoned in a lawful place and manner by the City. It shall not be a defense to a charge of violation under this section to move any such vehicle, automobile, boat or water craft, from one parcel of property in this city to another. (1975 Code, § 9-704, as replaced by Ord. #98-765, March 1998, and Ord. #99-794, Aug. 1999, and amended by Ord. #13-997, Dec. 2013)

**13-206. Removal of abandoned and/or non-operating and/or unregistered motor vehicles, boats, water craft or vehicles required.** (1) The accumulation and/or outside parking and/or outside storage of one or more abandoned, wrecked, junked, or non-operating automobile or vehicle, boats, water craft or any unregistered vehicle or other means of conveyance as are otherwise in violation of the provisions of this chapter shall constitute rubbish and unsightly debris and unsightly debris and a nuisance detrimental to the health, safety and general welfare of the citizens and inhabitants of the City of Red Bank and it shall be the duty of the registered owner of such motor vehicle, motor vehicle, boat and/or means of conveyance proscribed hereby and of the person in charge or control and/or the owner of the property upon which motor vehicle, boat, any water craft or vehicle is located, whether as owner, tenant, occupant, lessee, or otherwise, to remove the same to a place of lawful storage and to have the vehicle, boat, any water craft, or vehicle housed within a building where it will not be visible from the street.

(2) Alternatively, and in addition to the prohibitions, remedies and procedures set forth in Tennessee Code Annotated, § 15-16-101, et seq., as now enacted or as hereinafter amended, which provisions of the laws of the State of Tennessee are hereby adopted and incorporated herein by reference as an ordinance of this city.

**13-207. Notification and authority.** Whenever any such public nuisance exists on occupied or unoccupied commercial or residential, private or public, property within the City of Red Bank, best efforts shall be undertaken by the City Manager or his designee to notify the owners

of said property, the occupants or persons in possession thereof if different from the owner and any lienholders of record with respect to the personal property at issue, to abate and to remove the same. Such Notice/Order shall:

- (1) Be in writing,
- (2) Specify the public nuisance and its location,
- (3) Specify the corrective measures required,
- (4) Provide for compliance within ten (10) days from the date of notification and
- (5) Advise the person(s) entitled to notice of the possibility of enforcement and fine through the City Court and/or the City Administrative Hearing Officer, including but not limited to posting the vehicle, boat, any water craft, or other means of conveyance with written notice, which posting of the vehicle, boat, any water craft or vehicle shall be deemed notice to the Owner and to the person(s) in possession of the premises where same is located, for all purposes under this chapter of the Red Bank City Code.

The notification shall be served upon the owner or owners of said premises and/or upon the owner or owners of said motor vehicle, boat, water craft, or vehicle and/or upon the occupant, lessee, or person controlling the premises by serving them personally or by sending notice by certified mail, return receipt requested, to the address as shown on the current tax rolls of the City of Red Bank and/or by any other means available. If the owner or owners of the personal property at issue and/or the persons in possession of the premises fail or refuse to comply with the notice within a ten (10) day period after notification thereof, as provided herein, such failure or refusal shall be deemed a violation of the provisions of this chapter. If the person or persons entitled to notice hereunder fail or refuse to comply with the notice and order, as above provided, within the ten (10) day period after notification thereof, as provided herein, the City Manager or his authorized designee, including the police department, may enter upon said property, take possession of such vehicle or vehicles, boats or water craft, or other means of conveyance, remove the same from said property, dispose of same and cause such unlawful condition to be remedied.

Upon completion of such removal and disposition, the reasonable costs thereof, plus 15% for inspection fees and other incidental costs in connection therewith, shall be paid by the owner or owners of said property to the City of Red Bank and said costs and expenses, including attorney fees, shall be billed to the owner or owners of said property. If the bill is not fully paid within sixty (60) days after the mailing of said bill, a ten percent (10%) penalty shall be added and fines, costs, penalties and fees shall be placed on the tax rolls of the City of Red Bank as a lien upon the property and collected in the same manner as other city taxes are collected and/or may be collected by Civil Process and suit in the Court of General Sessions.

Provided, however, that prior to the removal of any such vehicle, boat or water craft from private property, such vehicle itself shall first be posted with a notice of the intended removal and of the fact that the owner or possessor or lienholder of record thereof shall be entitled to a hearing before the City Administration Hearing Officer within thirty (30) days from the date of the notice.

**13-208. Notification of owners and lienholder.** The police department upon taking into custody an abandoned motor vehicle or non-operating vehicle, boat and/or water craft or other means of conveyance shall due and reasonable attempt to notify within fifteen (15) days thereof, by registered mail, return receipt requested, the last known registered owner of the motor vehicle, vehicle, boat and or water craft all lienholders of record, and if applicable, the occupant of the premises from which the vehicle, boat and/or water craft was removed, that the vehicle, boat, and/or water craft has been taken into custody. The notice shall reasonably describe as far as may be ascertainably the year, make, model, and vehicle identification number and/or registration or license number of the motor vehicle, vehicle, boat and/or water craft; location of the facility where



such vehicle, boat or water craft is being held; inform the owner and any reasonably ascertainable lienholder of their right to reclaim the vehicle, boat or water craft within ten (10) days after the date of the notice, upon payment of all towing, preservation and storage charges resulting from removing and placing the vehicle, boat and/or water craft in custody; and state that the failure of the owner or lienholder to exercise their right to reclaim the motor vehicle, vehicle, boat and/or water craft or other means of conveyance and consent to the sale of the abandoned motor vehicle, vehicle, boat and/or water craft or other means of conveyance at a public auction. (1975 Code, § 9-706, as amended by Ord. #98-765, March 1998, and Ord. #13-997, Dec. 2013)

**13-209. Auction and disposition of abandoned and/or non-operating motor vehicles, vehicles, boats and/or water craft or other means of conveyance.**

(1) If an abandoned or non- operating vehicle, boat and/or water craft has not been reclaimed as provided for in § 13-208, the police department or City Manager shall sell the motor vehicle, vehicle, boat and/or water craft or other means of conveyance at a public auction as otherwise authorized by law.

(2) As authorized by Tennessee Code Annotated, § 55-16-106, et seq., the purchaser of the motor vehicle, vehicle, boat and/or water craft shall take title to the motor vehicle, vehicle, boat and/or water craft free and clear of all liens and claims of ownership, shall receive a sales receipt from the City, and, upon presentation of such sales receipt, the department of revenue shall issue a certificate of title to the purchaser.

(3) The sales receipt only shall be sufficient title for purposes of transferring the motor vehicle, vehicle, boat and/or water craft or other means of conveyance to a demolisher for demolition, wrecking or dismantling, and, in such case no further titling of the vehicle, boat and/or water craft shall be necessary.

(4) The proceeds of the sale of any such motor vehicle, vehicle, boat and/or water craft or other means of conveyance shall be used for payment of the expenses of the auction, the cost of towing or removal, preserving and storing the abandoned vehicle, boat or water craft, and all notice of publication costs incurred pursuant to § 13-207.

(5) (a) Any remainder from the proceeds of a sale shall be held for the owner of the vehicle, boat and/or water craft or entitled lienholder for forty-five (45) days, and then shall be deposited in a reserve account in the general fund which shall remain available for the payment of auction, towing, preserving, storage and all notice and publication costs which result from placing other abandoned or non-operating vehicles in custody whenever the proceeds from a sale of such other motor vehicles, vehicles, boats and/or water craft are insufficient to meet these expenses and costs.

(b) Whenever the chief fiscal officer of the city finds that moneys in the reserve account are in excess of reserves likely to be needed for the purposes thereof, he may transfer the excess to the general fund, but in such event, claims against the reserve account, if the reserve account is temporarily exhausted, shall be met from the general fund to the limit of any transfer previously made thereto pursuant to this section. (1975 Code, § 9-707, as amended by Ord. #98-765, March 1998)

**13-210. Violations: penalty.** In addition to the abatement and removal provisions of this chapter and any and all administrative and removal and storage costs associated therewith, any person(s) violating any of the provisions of this chapter shall be deemed guilty of violation of city ordinance, and upon conviction thereof shall be fined a fine up to \$500.00 per each day of violation after notice of violation. Each day that such violation is committed, or continues after notification is provided hereinabove, shall constitute a separate offense and shall be punishable as such.

SECTION 3: Every section, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

SECTION 4: This Ordinance will take effect upon its passage on final reading, the health, safety, welfare, and benefit of the citizens of the City of Red Bank requiring it.

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Mayor

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City Recorder

August 20, 2019  
Passed on First Reading

September 3, 2019  
Passed on Second and Final Reading

Approved as to form:

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City Attorney

ORDINANCE NO. 19-1159

AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE,  
AMENDING THE ZONING MAP TO REZONE PROPERTIES LOCATED AT HAMILTON  
COUNTY TAX PARCEL NUMBERS 126C D 012-015 AND 126F C 028 AND 028.01 AT  
201, 205, 207, 209 AND 224 HEDGEWOOD DRIVE AND 123 EVERLY DRIVE FROM R-1  
RESIDENTIAL TO R-T\Z RESIDENTIAL TOWNHOUSE\ZERO LOT LINE

WHEREAS *Tennessee Code Annotated* (TCA) § 13-7-201 allows municipal  
governments the authority to regulate land use through zoning of its jurisdictional territory; and

WHEREAS the Red Bank Municipal Planning Commission has certified zoning districts  
as provided for in TCA § 13-7-202; and

WHEREAS TCA §13-7-204 authorizes amendments to the municipal zoning map and  
provides for that process; and

WHEREAS the applicants, Tyler Smith and Britton Elmore, have requested that a portion  
of the property at 201 Hedgewood Drive, and the properties at 205, 207, 209 And 224  
Hedgewood Drive and 123 Everly Drive be rezoned from R-1 Residential to R-T\Z Residential  
Townhouse\Zero Lot Line; and

WHEREAS the legal descriptions for said property is included with Plat Book 115 Page  
17 and Plat Book 9 Page 20; and

WHEREAS the Red Bank Planning Commission thoroughly reviewed the rezoning  
request and provided an opportunity for citizens to submit comments in favor of or against the  
proposed rezoning at an advertised public hearing held in conjunction with its regular meeting on  
October 17, 2019; and

WHEREAS, the Red Bank Planning Commission recommended approving the rezoning  
request; and

WHEREAS the City Commission provided an opportunity for citizens to submit  
comments in favor of or against the proposed rezoning at an advertised public hearing held  
during its regularly scheduled Commission Meeting on November 19, 2020; and

WHEREAS the City Commission finds that the proposed development afforded by the  
rezoning request would not have a negative impact on adjacent properties and that the rezoning  
and development promotes the goals of the Red Bank 2020 Land Use Plan

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RED BANK,  
TENNESSEE, AS FOLLOWS:

SECTION 1. The Zoning Ordinances and Zoning Maps of this City are hereby amended  
by rezoning a portion of the property at 201 Hedgewood Drive, and the properties at 205, 207,

209 And 224 Hedgewood Drive and 123 Everly Drive, shown in Exhibit A as Hamilton County tax parcel numbers 126C D 012-015 and 126F C 028 and 028.01 from R-1 Residential to R-TVZ Residential Townhouse\Zero Lot Line

SECTION 2. Upon the adoption of this Ordinance, the Zoning maps of the City shall be amended and changed to reflect this rezoning with the limited condition noted.

SECTION 3. Every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

SECTION 4. This ordinance shall take effect from and after the date of its final passage, the public welfare of the City of Red Bank, Tennessee requiring it.

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MAYOR OF RED BANK

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CITY RECORDER

November 19, 2019

PASSED ON FIRST READING

December 3, 2019

PASSED ON SECOND READING

APPROVED AS TO FORM:

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CITY ATTORNEY

### **Exhibit A. Map**

126C D 012-015 and 126F C 028 and 028.01

201, 205, 207, 209 and 224 Hedgewood Drive and 123 Everly Drive

### **ORDINANCE 19 - 1159**

Rezoning Request, R-1 to R-T\Z



# Exhibit B. Plat Book 115 Page 17

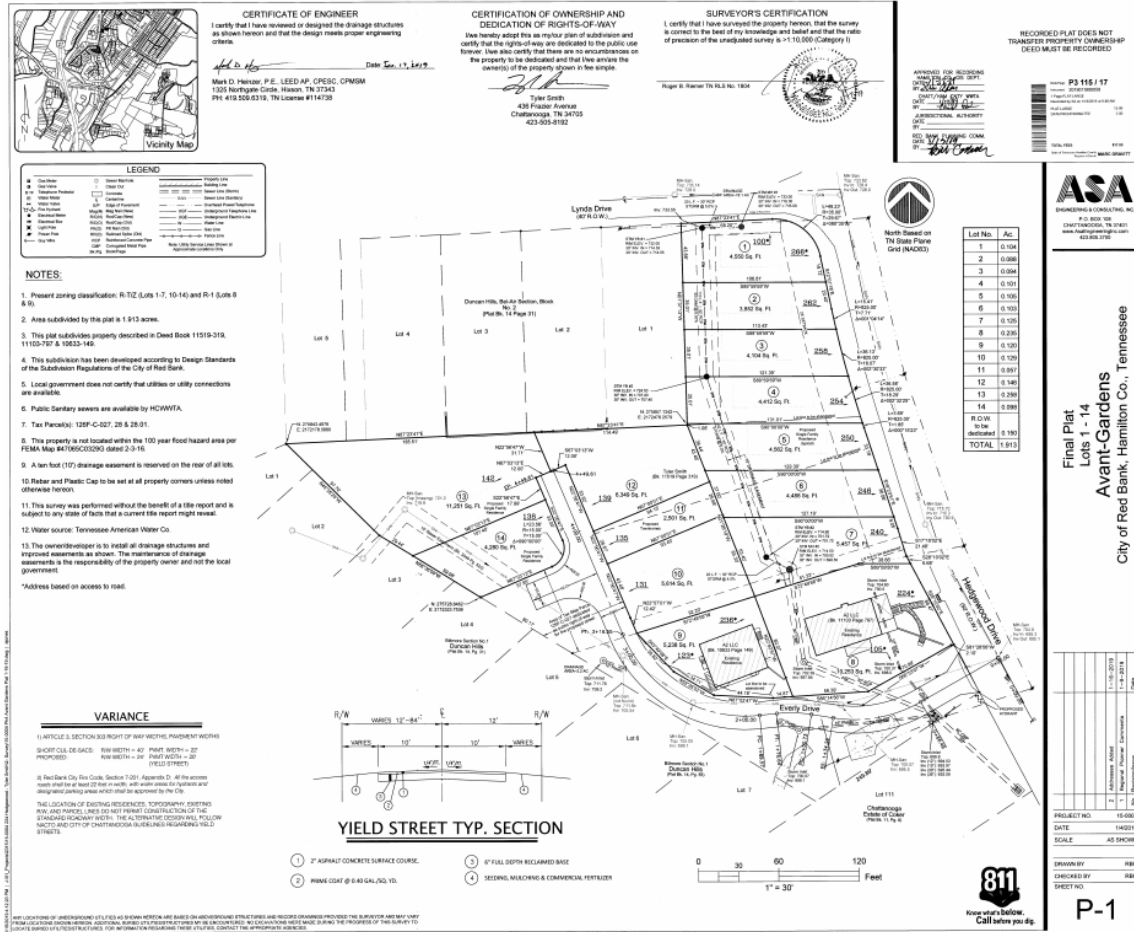
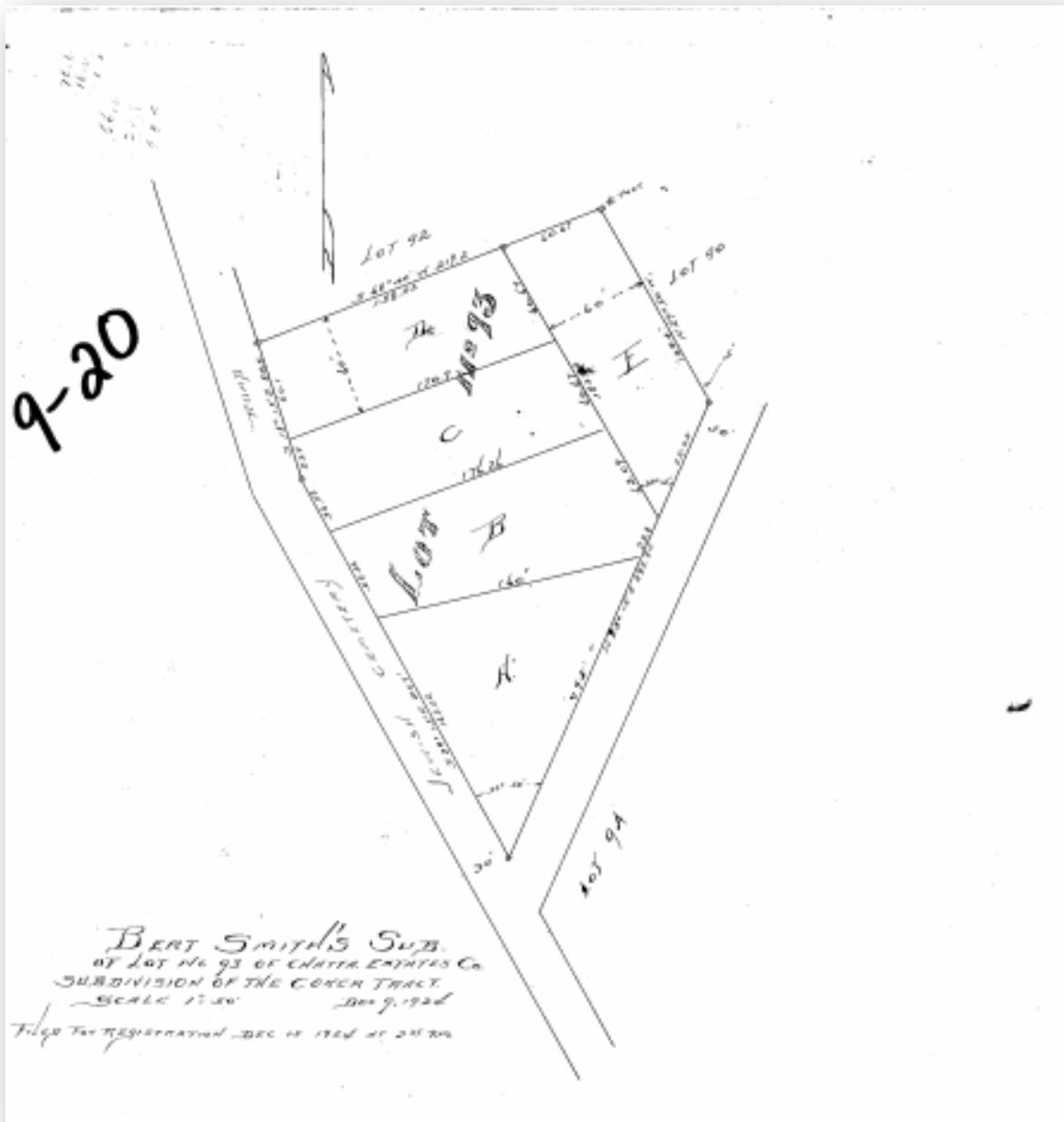


Exhibit C. Plat Book 9 Page 20







**ORDINANCE NO. 19-1160**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO PLACE AN ENFORCEMENT MORATORIUM UPON AND FOR A STATED PERIOD OF TIME, SUSPEND THE RED BANK DESIGN REVIEW ORDINANCE, ORDINANCE NOS. 17-1090 AND 19-1143**

**WHEREAS**, effective on second and final reading on May 16, 2017, the City Commission for the City of Red Bank adopted Ordinance No. 17-1090 and later amended by Ordinance No. 19-1143 and thereby put in place and later amended a set of regulations with respect to and with the stated intent of improving the overall quality of commercial development in the City of Red Bank, enhancing pedestrian safety in the City's commercial corridor, ensuring the compatibility of new and revitalized developments and land uses and to ensure that a design review process is accessible and easy to understand; and

**WHEREAS**, in the almost twenty-four (24) months since its initial adoption, later amendment and implementation, City Administration has worked diligently to implement and to enforce the terms, provisions and conditions set out within the Design Review Ordinance as amended; and

**WHEREAS**, experience has dictated and shows that, in multiple instances, that while the overall concept is extremely well received, that there have been and continue to be instances of impositions and some hardships being placed upon current property owners, prospective property purchasers, businesses and developments which result, may result, or may have resulted in lost opportunities for businesses and property owners in the context of perhaps overly detailed requirements as otherwise set out within the Design Review Ordinance; and

**WHEREAS**, the City Commission has, over time, been made aware of multiple circumstances, situations and instances related to the Design Review regulations and especially concerning commercial design review standards that may be having unanticipated negative impacts upon the City and its Citizens and Businesses; and

**WHEREAS**, after consideration and review of specific occurrences, conversation in open meetings, consideration of certain specific situations and requirements, the City Commission is of the opinion that some and various of the regulations of the Design Review Standards may be too stringent and/or overly burdensome for property owners, business owners, prospective property owners and developments and so it is appropriate to revisit and conduct a comprehensive study of the Design Review Ordinance and the regulations contained therein, their respective interrelated workings, requirements and mandatory provisions in order to balance the rights, concerns and legitimate interest of owners, prospective owners, developers and business located or intending to locate in the City as those requirements, provisions and regulations were enacted and implemented when the Design Review Ordinance was first implemented and as later amended.

**NOW THEREFORE, BE IT ORDAINED**, by the City Commission of the City of Red Bank, Tennessee, that:

**SECTION 1:**

- (a) A MORATORIUM, for a period from the date of the enactment of this Ordinance on second and final reading, extending up through and including December 31, 2020 is hereby declared during which time the Design Review Ordinance, as amended, shall not be applicable and shall not be enforced.
- (b) The City Manager appoint a Committee and shall conduct and oversee a comprehensive study of the City's current Design Review Ordinance regulations and standards all in the best interest of the citizens of the City of Red Bank and the safety, health, morals and welfare of the citizens of the City of Red Bank, Tennessee.

- (c) This MORATORIUM shall expire at 11:59 p.m. on December 31, 2020, unless modified or extended, and shall become null and void upon that date and at that time and the terms, provisions and conditions of the Design Review Ordinance No. 17-1090 as amended by Ordinance No. 1-1143 shall automatically and ipso facto be once again in full force and effect and shall thereafter be enforced; this Moratorium shall be of no further force or effect unless the City Commission shall, in the interim, otherwise act, by Ordinance to lift, remove, and declare null and void this MORATORIUM and/or shall lawfully enact, in the interim alternative terms, provisions, ordinances, regulations and/or other legislative acts in the nature of Design Review Standards to be codified at Title 14, Chapter 5 of the Red Bank Municipal Code.
- (d). This Ordinance and the MORATORIUM enacted and set in place hereby may and shall be interpreted as a temporary and time limited REPEAL of the terms, provisions and conditions of Ordinance No. 17-1090.

SECTION 2: The Red Bank Municipal Planning Commission shall not, during the period of this MORATORIUM have any right, power, or authority as the Design Review Commission except, and when and as the City Manager and the City Commission shall otherwise lawfully assign duties to the Red Bank Municipal Planning Commission.

**BE IT FURTHER ORDAINED**, that every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

**FINALLY, BE IT ORDAINED** that this ordinance shall take effect from and after the date of its final passage, subject to the time limited provisions set forth hereinabove and until such time as the same shall be further modified, superseded and/or overridden by the City Commission of the City of Red Bank, Tennessee, all being required by the public welfare of the City of Red Bank, Tennessee.

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MAYOR

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CITY RECORDER

**December 3, 2019**

PASSED ON FIRST READING

**NOT APPROVED ON SECOND READING**

PASSED ON SECOND AND FINAL READING

APPROVED AS TO FORM:

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CITY ATTORNEY

## **ORDINANCE NO. 19-1161**

### **AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE TO PLACE A MORATORIUM UPON AND FOR A STATED PERIOD OF TIME SUSPEND THE OPERATION AND ENFORCEMENT OF RED BANK CITY CODE SECTION 9-845(3)(c) WITH RESPECT TO REMOVAL OF “POLE SIGNS” IN CERTAIN CIRCUMSTANCES.**

**WHEREAS**, the City Commission for the City of Red Bank has previously enacted the Red Bank Sign Ordinance, and codified at Title 9, Chapter 8, Sections 800 et seq., of the Red Bank City Code for the purpose of regulating governing the placement, replacement, repair, maintenance, compatibility, sight line distances, and overall visual attractiveness of advertising signs in commercial and, to a limited extent, residential and other zoned areas in the City of Red Bank, Tennessee; and

**WHEREAS**, the City Commission has determined, generally, that any continued proliferation and existence of pole signs that effect traffic sightlines, traffic obscuring distraction and visual clutter of Pole Signs is an undesirable aspect of the existence of “Pole Signs” within the City of Red Bank; and

**WHEREAS**, the City Commission has upon study, review, personal and corporate observation and based upon input from City Administration and from the Citizenry of the City of Red Bank, that the health, safety and welfare of the Citizens of the City of Red Bank would be better served by prohibiting any further proliferation of Pole Signs within the City and also by providing for the timed amortization and gradual sunseting of currently existing, erected and in place Pole Signs in the City of Red Bank; and

**WHEREAS**, the City Commission for the City of Red Bank declares and further affirms its intent to prohibit further erection of any more or additional Pole Signs in the City of Red Bank and in a timely, fair, and permissible manner to phase out the existence of Pole Signs over a period of years; and

**WHEREAS**, the Sign Ordinance in general and as particularly codified at Red Bank City Code Section 9-845(3)(c) contains provisions which while intended to address the matters set forth hereinabove and the general health, safety and welfare of the Citizens of the City of Red Bank including but not limited to issues related to traffic sightlines, pedestrian sightlines, and usage of sidewalks, streets, and roads in the City of Red Bank may not be appropriate for continued enforcement while other means, mechanisms and solutions are addressed.

**NOW THEREFORE, BE IT ORDAINED**, by the City Commission of the City of Red Bank, Tennessee, that:

#### **SECTION 1:**

- (a) A MORATORIUM, for a period from the date of the enactment of this Ordinance on second and final reading, extending up through and including December 31, 2020 is hereby declared during which time the provisions of Red Bank City Code Section 9-845(3)(c) shall not be applicable and shall not be enforced.
- (b) The City Manager shall conduct and oversee a comprehensive study of the City’s current Ordinance with respect to sunseting and amortized the usages and existence of “Pole Signs” in the City of Red Bank all in the best interest of the citizens of the City of Red Bank and the safety, health, morals and welfare of the citizens of the City of Red Bank, Tennessee.

- (c) This MORATORIUM shall expire at 11:59 p.m. on December 31, 2020, unless modified or extended, and shall become null and void upon that date and at that time and the terms, provisions and conditions of the currently existing Red Bank City Code Section 9-845(3)(c) shall automatically and ipso facto be once again in full force and effect and shall thereafter be enforced and this Moratorium shall be of no further force or effect unless the City Commission shall, in the interim, otherwise act, by Ordinance to lift, remove, and declare null and void this MORATORIUM and/or shall lawfully enact, in the interim alternative terms, provisions, ordinances, regulations and/or other legislative acts of and with respect to the regulation, removal and sunseting of Ordinances otherwise permitting the existence of pole signs in the City of Red Bank.
- (d). This Ordinance and the MORATORIUM enacted and set in place hereby may and shall be interpreted as a temporary and time limited REPEAL of the terms, provisions and conditions of Red Bank City Code Section 9-845(3)(c).

**BE IT FURTHER ORDAINED**, that every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

**FINALLY, BE IT ORDAINED** that this ordinance shall take effect from and after the date of its final passage, subject to the time limited provisions set forth hereinabove and until such time as the same shall be further modified, superseded and/or overridden by the City Commission of the City of Red Bank, Tennessee, all being required by the public welfare of the City of Red Bank, Tennessee.

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MAYOR

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CITY RECORDER

**December 3, 2019**

PASSED ON FIRST READING

**December 17, 2019**

PASSED ON SECOND AND FINAL READING

APPROVED AS TO FORM:

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CITY ATTORNEY

**ORDINANCE NUMBER 19-1162**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, AMENDING THE ZONING MAP TO REZONE PROPERTIES LOCATED IN THE 1800 BLOCK OF PINE BREEZE ROAD, TAX MAP PARCEL NUMBERS 126E B 020, 126E B 013, AND 126E B 014 FROM RT-1 RESIDENTIAL TOWNHOUSE ZONE TO R-3 HIGH DENSITY RESIDENTIAL ZONE ZERO LOT LINE, SUBJECT TO CONDITIONS**

**WHEREAS,** *Tennessee Code Annotated* (TCA) § 13-7-201 allows municipal governments the authority to regulate land use through zoning of its jurisdictional territory; and

**WHEREAS,** the Red Bank Municipal Planning Commission has certified zoning districts as provided for in TCA § 13-7-202; and

**WHEREAS,** TCA §13-7-204 authorizes amendments to the municipal zoning map and provides for that process; and

**WHEREAS,** the applicant/owner, George Bock, has requested that the property on Pine Breeze Road, in the 1800 clock, be rezoned from RT-1 Residential Townhouse to R-3 High-Density Residential; and

**WHEREAS,** the legal descriptions for said property is included with Deed Book 9972 Page 123 and is attached hereto as Exhibit B; and

**WHEREAS,** the Red Bank Planning Commission provided an opportunity for citizens to submit comments in favor of or against the proposed rezoning at an advertised public hearing held in conjunction with its regular meeting on November 21, 2019; and

**WHEREAS,** the Red Bank Planning Commission recommended approval of the rezoning request, subject to conditions; and

**WHEREAS,** the City Commission provided an opportunity for citizens to submit comments in favor of or against the proposed rezoning at an advertised public hearing on December 17, 2019; and

**WHEREAS,** after thoroughly reviewing the rezoning request, the City Commission finds that the proposed development afforded by the rezoning request would not have a negative impact on adjacent properties and is compatible with the City's Land Use Plan.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RED BANK, TENNESSEE, AS FOLLOWS:**

SECTION 1. The Zoning Ordinances and Zoning Maps of this City are hereby amended by rezoning the property located in the 1800 block of Pine Breeze Road, shown in Exhibit A as Hamilton County tax parcel numbers 126E B 020, 126E B 014, and 126E B 013, from RT-1 Residential Townhouse Zone to R-3 High Density Residential Townhouse / Zero Lot Line Zone subject to the following conditions:

- (a) Owner and applicant shall use the property only for a Planned Unit Development, the particulars of and requirements of which are subject to the approval of the Planning Commission.

- (b) There shall be no multifamily dwelling units constructed or so utilized, providing that “Townhomes”, and whether or not physically connected, shall not be considered as a multi-family dwelling unit.
- (c) The maximum number of residential units shall not exceed twenty-nine (29).
- (d) Zoning of the property shall automatically revert back to RT-1 Residential Townhouse if development of the property has not commenced within thirty-six (36) months of final passage of this ordinance, i.e. January 7, 2023.

SECTION 2. In the event and assuming that an additional portion of the entire tract owned by the owner and located in the city limits of the City of Chattanooga, is successfully incorporated into the City of Red Bank from the City of Chattanooga, then such land area is, and shall be hereby also, automatically and ipso facto be zoned R-3 High Density Residential Zero Lot Line, subject to conditions set-out herein.

SECTION 3. Upon the adoption of this Ordinance, the Zoning maps of the City shall be amended and changed to reflect this rezoning with the limited condition noted.

SECTION 4. Every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not affect or impair any other section, sentence, clause, or phrase.

SECTION 5. This ordinance shall take effect from and after the date of its final passage, the public welfare of the City of Red Bank, Tennessee requiring it.

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MAYOR OF RED BANK

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CITY RECORDER

December 17, 2019

PASSED ON FIRST READING

January 7, 2020

PASSED ON SECOND READING

APPROVED AS TO FORM:

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CITY ATTORNEY

CONDITIONS ACCEPTED:

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George Bock

## **Exhibit A. Map**

**ORDINANCE 19 - 1162**

126E B 020, 126E B 014, and 126E B 013  
PINE BREEZE ROAD



**Exhibit B. Ordinance 19-1162 Legal Description from Deed Book 9972 Page 123**

12

This Instrument Prepared By:  
Hon & Kopet, Attorneys  
Title Guaranty & Trust Company  
617 Walnut Street  
Chattanooga, TN 37402

Instrument: 2013060500164  
Book and Page: G1 9972 123  
DEED RECORDING FEE \$20.00  
DATA PROCESSING FEE \$2.00  
CONVEYANCE TAX \$1,239.50  
PROBATE FEE \$1.00  
Total Fees: \$1,262.50  
User: KML  
Date: 6/5/2013  
Time: 2:26:13 PM  
Contact: Pam Hurst, Register  
Hamilton County, Tennessee

H&K/16/13/32923/-2013/1181

NAME & ADDRESS OF NEW OWNERS:	SEND TAX BILLS TO:
GEORGE I. BOCK, III and JAMY F. BOCK P.O. BOX 71856 CHATTANOOGA, TN 37407	SAME
Tax Map/Parcel Nos.: 126E-B-013, 126E-B-014, 126E-B-015.01 and 126E-B-020	

**QUITCLAIM DEED**

FOR AND IN CONSIDERATION of the sum of One and No/100 (\$1.00) Dollars, cash in hand paid by the hereinafter named Grantees, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, we, RALPH M. KILLEBREW, JR. and wife, CARYLON KILLEBREW, herein the Grantors, do hereby transfer, convey and forever quitclaim unto GEORGE I. BOCK, III and wife, JAMY F. BOCK, herein the Grantees, their heirs and assigns, all our right, title and interest in and to the following described property:

BEING PARTLY IN THE THIRD CIVIL DISTRICT OF HAMILTON COUNTY, TENNESSEE AND PARTLY IN THE CITY OF CHATTANOOGA, HAMILTON COUNTY, TENNESSEE:

Beginning at an iron pipe in the west right-of-way line of White Oak Road at the Southeast corner at the property of Stephen R. Gilmore described in Book 3641, Page 789, in the Register's Office of Hamilton County, Tennessee; thence with the south line thereof, South 87 degrees 34 minutes 14 seconds West 222.44 feet to the southwest corner thereof; thence with and along the west line of the partition of Swafford and Lyons property, and a north extension thereof, as shown by plat recorded in Plat Book 21, Page 53, in the Register's Office of Hamilton County, Tennessee; North 3 degrees 44 minutes 01 second West 772.98 feet to a post in the east right-of-way of Pine Breeze Road; thence southwardly with said east line to a post at the Northeast corner of the property of Carylton Ann Cooper Austin, described in Book 3383, Page 838, in the Register's Office of Hamilton County, Tennessee; thence with an east line thereof, South 0 degrees 10 minutes 05 seconds West 125.67 feet; thence with a north line of Austin North 87 degrees 54 minutes 45 seconds East 165 feet to an iron pipe; thence with an east line thereof, South 0 degrees 22 minutes 46 seconds East 64.08 feet to a post; thence with the north line of the property of Derrick C. Rushworth described in Book 4271, Page 11, in the Register's Office of Hamilton County, Tennessee, South 89 degrees 25 minutes 12 seconds East 324.98 feet; to a post; thence with the west line of the property of White Oak Apartments North 01 degree 20 minutes 20 seconds East 60.06 feet, South 87 degrees 34 minutes 14 seconds West 3.11 feet and North 02 degrees 25 minutes 46 seconds West 150 feet to an iron pipe; thence with the north line of the said property, North 87 degrees 34 minutes 14 seconds East 384.25 feet to an iron pipe in the west right-of-way line of White Oak Road; thence with the west line thereof,

h:\deeds\2013\deed-quitclaim\13-killebrew to bock-white oak rd-12923



North 02 degrees 11 minutes 55 seconds East 50.49 feet to the point of beginning. Being shown on survey by Robert H. Chappell, dated July 31, 1995, Drawing No. 9511-1.

EXCEPTING THEREFROM that portion of the above-described property conveyed to William David Bruce and wife, Lisa Ann Smith, by Warranty Deed from Carylton Ann Killebrew, a/k/a Carylton Killebrew, and husband, Ralph M. Killebrew, Jr., dated July 29, 2011 and recorded on August 2, 2011 in Book 9448, Page 643, in the Register's Office of Hamilton County, Tennessee.

FOR PRIOR TITLE, see Deed from Southern Realty Company, a Tennessee corporation, Trustee, to Ralph M. Killebrew, Jr. and wife, Carylton Killebrew, dated September 28, 1995 and recorded on September 29, 1995 in Book 4568, Page 956, in the Register's Office of Hamilton County, Tennessee.

THIS CONVEYANCE MADE SUBJECT TO THE FOLLOWING:

Any governmental zoning and subdivision ordinances in effect thereon.

Grantors and Grantees acknowledge that this Deed was prepared from information furnished by them. No title examination has been made and neither Hon & Kopet, Attorneys, nor the Title Guaranty and Trust Company of Chattanooga shall have any liability for the status of title to the property or for the accuracy of such information.

TO BE EFFECTIVE as of the 4<sup>th</sup> day June 2013.

  
RALPH M. KILLEBREW, JR.

  
CARYLTON KILLEBREW

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 4th day of June 2013, before me personally appeared RALPH M. KILLEBREW, JR., to me known to be the person described in and who executed the foregoing instrument (or proved to me on the basis of satisfactory evidence), and who acknowledged that he executed the same as his free act and deed.

Witness my hand and Notarial Seal



Kathy Burkhardt  
NOTARY PUBLIC

My Commission Expires: 8-7-16

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this 4th day of June 2013, before me personally appeared CAROLYN KILLEBREW, to me known to be the person described in and who executed the foregoing instrument (or proved to me on the basis of satisfactory evidence), and who acknowledged that she executed the same as her free act and deed.

Witness my hand and Notarial Seal.

Kathy Burkhardt  
NOTARY PUBLIC

My Commission Expires: 8-7-16



STATE OF TENNESSEE  
COUNTY OF HAMILTON

I hereby swear or affirm that the actual consideration for this transfer is \$ 335,000.00

[Signature]  
AFFIANT

Sworn and subscribed before me this 4th day of June, 2013.

Kathy Burkhardt  
NOTARY PUBLIC  
My Commission Expires: 8-7-16



**ORDINANCE NO. 20-1163**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE TO REPEAL THE EXISTING RED BANK DESIGN REVIEW ORDINANCE, CODIFIED AT RED BANK CITY CODE TITLE 14, CHAPTER 5, AND TO ADOPT IN ITS PLACE AND STEAD THE RED BANK DESIGN ORDINANCE, ALSO TO BE CODIFIED AT TITLE 14, CHAPTER 5, OF THE RED BANK CITY CODE**

**WHEREAS**, experience has dictated and shows that, in multiple instances, that while the overall concept is extremely well received, that there have been and continue to be instances of impositions and some hardships being placed upon current property owners, prospective property purchasers, businesses and developments which result, may result, or may have resulted in lost opportunities for businesses and property owners in the context of perhaps overly detailed requirements as otherwise set out within the Design Review Ordinance; and

**WHEREAS**, the City Administration has identified the need to update and revise the existing Design Review Ordinance, as currently codified at Red Bank City Code Title 14, Chapter 5, of the Red Bank City Code; and

**WHEREAS**, the Red Bank Planning Commission, the City Manager and the City of Red Bank's contracted Planner, has reviewed revisions and had significant input into the review of the existing Design Review ordinance; and

**WHEREAS**, the Red Bank Planning Commission has recommended approval of the revisions and amendments hereafter set forth.

**NOW THEREFORE, BE IT ORDAINED**, by the City Commission of the City of Red Bank, Tennessee as follows

SECTION 1: The existing Red Bank Design Review Ordinance as codified at Red Bank City Code Title 14, Chapter 5, is hereby **REPEALED** in its entirety, and there in substituted in its place and stead, at Title 14, Chapter 5, the following:

SECTION 2: This Ordinance shall be known and cited as the **RED BANK DESIGN REVIEW ORDINANCE**.

**SEE EXHIBIT A, ATTACHED HERETO ENTITLED, DESIGN REVIEW STANDARDS, PAGES 1 – 29 INCLUSIVE, AND INCORPORATED HEREIN BY REFERENCE**

**BE IT FURTHER ORDAINED**, that every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

**FINALLY, BE IT ORDAINED** that this ordinance shall take effect from and after the date of its final passage, the public welfare of the City of Red Bank, Tennessee requiring it.

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MAYOR

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CITY RECORDER

**January 21, 2020**

PASSED ON FIRST READING

**February 4, 2020**

PASSED ON SECOND AND FINAL READING

APPROVED AS TO FORM:

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CITY ATTORNEY

## **ORDINANCE NO. 20-1164**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE TO SUPERSEDE ORDINANCE NO. 14-1015, TO BE CODIFIED AT TITLE 3, CHAPTER 2, SECTION 202 ET. SEQ. OF THE RED BANK CITY CODE, IN ORDER TO RE-AUTHORIZE AND PROVIDE, IN GENERAL FOR THE ASSESSMENT AND PAYMENT OF COURT FINES, FEES AND COURT COSTS IN THE RED BANK CITY COURTS, AND TO INCLUDE SPECIFICALLY THOSE FINES, FEES AND COSTS PERMITTED IN THE CONTEXT OF T.C.A. § 55-10-207, “CITATIONS” AND AS GOVERNED BY TENNESSEE CODE ANNOTATED 55-10-207**

**WHEREAS**, increased expenses related to the operation of the City Court and the administration of the City Court Clerk’s office directly related to the processing of the increasingly high volume of cases brought before the City Court necessitates an assessment of such necessary expenditures to the persons and entities utilizing such services; and

**WHEREAS**, the State of Tennessee, pursuant to T.C.A. § 8-21-40; et seq.; regulates fees and court costs chargeable in such circumstances.

**WHEREAS**, T.C.A. § 55-10-207 provides for and regulates the assessment of such assessment and collection of fines, fees and costs in context “Citations”;

**NOW, THEREFORE, BE IT ORDAINED** by the City Commission of the City of Red Bank and as authorized and governed by Tennessee Code Annotated §§ 8-21-401 et. seq., and 55-10-207, as follows:

**SECTION 1.** Subsection (2) of the Red Bank City Code at Title 3, Chapter 2, Section 202 et. seq., is hereby deleted in its entirety and amended by substituting the following in its place and stead:

- (2) In all cases heard or determined in the City Court, including “Citations” as authorized by T.C.A. §55-10-207, the City Judge shall tax a Bill of Costs, municipal court fees and costs in the maximum amounts authorized by T.C.A. Section 8-21-401, et. seq., in accordance with the schedule hereinafter incorporated below except as may be limited by T.C.A. § 55-10-207, in addition to all applicable litigation taxes and specific fees required to be imposed on specific cases. Of the above fees, One (\$1.00) Dollar on municipal code violations shall be sent to the State for municipal training as mandated by T.C.A. Section 16-8-304, et seq.

See Exhibit A, RED BANK MUNICIPAL COURT, COURT COSTS SPECIFIED

**SECTION 2.** This Ordinance repeals and supersedes any Ordinances or Code Sections regarding the same subject matter(s) that are in conflict with the terms of this Ordinance, Codified at Title 8, Chapter 3, Section 304 of the Red Bank City Code.

SECTION 3. That if any section, sentence, clause, phrase, word or figure contained in this Ordinance should be declared invalid by a final decree of a court of competent jurisdiction, such holding shall not affect the remaining sections, sentences, clauses, phrases, words and figures contained in this Ordinance, but the same shall remain in full force and effect.

SECTION 4. This Ordinance shall take effect from and after the date of its final passage the health, safety and welfare of the citizens of the City of Red Bank requiring it.

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MAYOR

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CITY RECORDER

**February 4, 2020**

PASSED ON FIRST READING

**February 18, 2020**

PASSED ON SECOND AND FINAL READING

APPROVED AS TO FORM:

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CITY ATTORNEY

## **ORDINANCE NUMBER 20-1165**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, ABANDONING A CERTAIN RIGHT-OF-WAY BETWEEN 517 WOODROSE LANE, HAMILTON COUNTY TAX MAP PARCEL 099N E 049 AND 5105 DELASHMITT ROAD, HAMILTON COUNTY TAX MAP PARCEL 099N E 047, AND 5107 DELASHMITT ROAD, HAMILTON COUNTY TAX MAP PARCEL 099N E 046 AND A PARCEL WITHOUT AN ASSIGNED POSTAL ADDRESS AT HAMILTON COUNTY TAX MAP PARCEL 099N E 048**

**WHEREAS**, the City of Red Bank has been approached by the property owner of 517 Woodrose Lane, Hamilton County Tax Map Parcel 099N E 049 with a request to use the Right-of-Way to the southeast of the property for a private drive to the existing lots of record at Hamilton County Tax Map Parcel 099N E 048;

**WHEREAS**, in order to facilitate the plans of the applicant/owner to pave a private drive, it will be necessary for the City of Red Bank to abandon the unopened and unnamed right-of-way to the southeast of the property; and

**WHEREAS**, the Red Bank Municipal Planning Commission reviewed this request at a publicly noticed and regularly scheduled meeting on January 16, 2020; and

**WHEREAS**, the City has mailed and delivered Notices to all adjacent owners of record of the date, time, place and purpose of the consideration of this Ordinance; and

**WHEREAS**, the City Commission finds, upon recommendation by the Red Bank Municipal Planning Commission and upon public comment, that the right-of-way has no or very limited potential for future public use and abandoning such would promote residential development for that location, which will benefit the City as a whole.

**NOW THEREFORE BE IT ORDAINED** by the City of Red Bank Tennessee as follows:

**SECTION 1.** That the straight forty (40) foot wide right of way beginning at Woodrose Lane between 517 Woodrose Lane (Tax Map Parcel Parcel 099N E 049), 5105 Delashmitt Road (Tax Map Parcel 099N E 047), 5107 Delashmitt Road (Tax Map Parcel 099N E 046), and unaddressed lot of record at Tax Map Parcel 099N E 048, and extending to the northeast some four-hundred and seventy-two point nineteen (472.19) feet, as shown on the schematic drawing that is attached hereto as Exhibit A, and further illustrated by the attached Exhibit B, is hereby closed and abandoned as right-of-way, , except that there shall be retained by the City of Red Bank easements for drainage and for all public utilities, electrical, gas, water and sewage on, over and across all portions of the abandoned right-of-way.

**SECTION 2.** That by operation of law, title, subject to the easements reserved in Section 1 of this Ordinance herein to the fee interest, reverts to adjoining property owners from the center line of the forty (40) right of way, twenty (20') feet to each adjoining owner, paralleling the boundary of each lot of record.



SECTION 3. Within 365 days from the date of approval of this Ordinance, the Applicant/Owners shall provide and record a non-exclusive access Easement Agreement for, ingress, egress and utilities to the existing lots of record, i.e Tax Map Parcel 099N E 047 and Map Tax Parcel 099N E 046, said Easements being acceptable in form and content to the City of Red Bank, before any building permit(s) can be issued to any affected lot currently of record.

SECTION 4. This Ordinance shall take effect from and after the date of its final passage upon the recording of the above referenced easement for ingress, egress and utilities, the public welfare of the City of Red Bank, Tennessee requiring it.

SECTION 5. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 6. Every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not affect or impair any other section, sentence, clause, or phrase.

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MAYOR OF RED BANK

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CITY RECORDER

**February 18, 2020**

PASSED ON FIRST READING

**March 3, 2020**

PASSED ON SECOND READING

APPROVED AS TO FORM:

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CITY ATTORNEY

## **ORDINANCE NO. 20-1166**

### **AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, AMENDING ORDINANCE NO. 19-1144 BY EXTENDING THE TIME LIMIT FOR COMMENCEMENT OF OPERATION OF AN INDOOR CLIMATE CONTROLLED STORAGE FACILITY AT 4707 DAYTON BLVD AND THEREBY AMENDING ORDINANCE 19-1144**

**WHEREAS**, Eric Everette, the owner, earlier petitioned the Red Bank Planning Commission and the Red Bank City Commission to rezone the property located at 4707 Dayton Boulevard, Hamilton County Tax Map Parcel No. 109B-E-005 from C-1 Commercial zone to L-1 Light Manufacturing zone; and

**WHEREAS**, the Red Bank Planning Commission had conducted a public hearing and did not recommend approving or denying the request at their December 20, 2018 meeting; and

**WHEREAS**, the City Commission, upon notice, held a public hearing in conjunction with the regularly scheduled Commission Meeting on Tuesday, February 5, 2019; and

**WHEREAS**, the City Commission adopted Ordinance No. 19-1144, on second and final reading, at the regularly scheduled Commission Meeting on February 19, 2019, thereby approving and; the requested rezoning, SUBJECT TO CONDITIONS, i.e. that the only light manufacturing usage permitted is “Indoor Climate Controlled Storage”, and if operations are not commenced within one (1) year from and after the date of passage of this Ordinance”, Ordinance 19-1144, on second and final reading, at the regularly scheduled Commission Meeting on February 19, 2019; and

**WHEREAS**, the owner, Eric Everette, claiming difficulties in obtaining necessary approvals in regard to Design Review Standards and the impending expiration of the time limit, has requested an extension of the specified condition that “If Indoor Climate Controlled Storage operations are not commenced within one (1) year from and after the date of passage of this Ordinance” that the zoning shall automatically revert to C-1 commercial zone and;

**WHEREAS**, the City Commission, upon hearing from the owner/applicant has determined that the request for an extension of time to commence operations is not unreasonable and has determined to provide for a further extension of time for an additional 180 days.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RED BANK, TENNESSEE, THAT ORDINANCE 19-1144 IS AMENDED AS FOLLOWS:**

SECTION 1. Section 2 of Ordinance No. 19-1144 is amended to delete “one (1) year” and replace it with “eighteen months (18) months”, thereby extending the time limit for commencement of operations of Indoor Climate Controlled Storage usage, until August 19<sup>th</sup>, 2020.

SECTION 2. This ordinance affirms and does not alter any other condition(s) or sections

of the rezoning as approved in Ordinance No. 19-1144 except as shown in Section 1 of this Ordinance and particularly reaffirms the provisions related to automatic reversion to C-1 commercial zone if operations are not timely commenced.

SECTION 3. Every section, sentence, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

**NOW THEREFORE BE IT FURTHER ORDAINED** that this Ordinance shall take effect upon the date of its final passage, the public welfare of the City of Red Bank, Tennessee requiring it.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY RECORDER

**February 18, 2020**

PASSED ON FIRST READING

**March 3, 2020**

PASSED ON SECOND READING AND FINAL READING

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

ACCEPTED, ACKNOWLEDGED AND  
AGREED AS TO THE LIMITING FACTORS,  
CONDITIONS AND REQUIREMENTS AND  
OF THE TIME RELATED REQUIREMENTS HEREOF

Eric Everette

BY: \_\_\_\_\_  
Owner(s)

**ORDINANCE NO. 20-1167**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE TO REVISE THE RED BANK SIGN ORDINANCE, CODIFIED AT TITLE 9, CHAPTER 8, SECTION 9-801 ET SEQ. AND TO BE KNOWN AS THE OMNIBUS RED BANK SIGN ORDINANCE RECONCILIATION ORDINANCE OF APRIL, 2020**

**WHEREAS**, certain changes in applicable law and case law related to court decisions addressing the general topic of “signs” compel a reconsideration of certain content based Ordinances and Regulations currently in place in the Red Bank Sign Ordinance; and

**WHEREAS**, certain provisions in the Red Bank Sign Ordinance, as currently existing, are of doubtful continuous legal enforceability; and

**WHEREAS**, the City strives, at all times, to balance its regulations and ordinances related to signs and signage with the best interest of the citizens of the City of Red Bank, the business interests in and of the community and the inherent authority afforded to Home Rule Municipalities to regulate signs, signage and related displays; and

**WHEREAS**, the City Administration and City Council have undertaken to review, study and understand current (possibly) overriding State regulation and court decisions in order to apply the same appropriately to the Red Bank Sign Ordinance.

**NOW THEREFORE, BE IT ORDAINED**, by the City Commission of the City of Red Bank, Tennessee as follows:

SECTION 1: The existing Red Bank Sign Ordinance as codified at Red Bank City Code Title 9, Chapter 8, Section 9-801 et seq., is hereby **AMENDED** and supplemented as follows by enacting a new subsection 9-851 **CONTENT BASED RESTRICTIONS AMENDED** as follows:

(a) Excepting the provisions 9-816 hereof, related to **OBSCENE DISPLAYS** and content, any and all provisions, sections and subsections and/or requirements of the Red Bank Sign Ordinance Title 9, Chapter 8, Section 9-801 et seq., which do or purport to restrict or differentiate with respect to the content or message displayed on billboards, pole signs, off premises signs, on premises signs, balloon signs, wall murals and/or any other displays or signs of any kind or character whatsoever and as otherwise regulated by the Red Bank Sign Ordinance are repealed and deleted and amended such that (excepting expressly the provisions of subsection 9-816 as hereinabove provided) content based exceptions and/or restrictions with respect to permits for signs, displays, advertising, message or verbiage, photographs, pictures, etc. shall no longer be valid or enforceable.

(b) More particularly, signs or signage which heretofore were restricted and/or not allowed of or with respect to the content or display(s) of advertising and/or messages of and in particular with respect to on premises signs, off-premises signs, billboards, pole signs, etc. and as relates to the general topic of “goods, services and/or events available or for sale on premises” shall no longer be valid or enforceable.

**BE IT FURTHER ORDAINED**, that every section, sentence, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

**FINALLY, BE IT ORDAINED** that this ordinance shall take effect from and after the date of its final passage, the public welfare of the City of Red Bank, Tennessee requiring it.

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MAYOR

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CITY RECORDER

**April 21, 2020**

PASSED ON FIRST READING

**May 5, 2020**

PASSED ON SECOND AND FINAL READING

APPROVED AS TO FORM:

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CITY ATTORNEY

## **ORDINANCE NO. 20-1168**

### **AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE TO AMEND ORDINANCE NO. 15-1036, THE RED BANK PERSONNEL POLICIES ORDINANCE CODIFIED AT APPENDIX A TO THE RED BANK CITY CODE.**

**WHEREAS**, the Personnel Policies Manual, adopted pursuant to Ordinance 15-1036, and as amended, is necessarily reviewed and addressed from time to time; and

**WHEREAS**, in the current context of the “COVID-19 Pandemic” it has become necessary and appropriate or unique, original, imaginative and extra ordinary policies to be implemented, revised, changed, varied and carried out from time to time in order to maintain appropriate “social distancing” but yet for the City to continue to provide the “Essential Services” of the City; and

**WHEREAS**, the City Manager, to this point, has undertaken to implement and utilize unique policies, including “telecommuting”, “work at home”, furloughed and paid leave, paid administrative leave, and similar and like policies so as to currently maintain Essential Services and at the same time to maintain a reserve force of qualified City employees to undertake active work and presence at City Hall and in other essential City Government functions in the event the employees who continue to work, day to day, and in essential services and functions, or in the City Hall, and/or in the Public Works Department, and in the Fire Department, and in the Police Department and in all other capacities should become ill and/or subject to quarantine and/or self-isolation requirements; and

**WHEREAS**, the current version of the Personnel Policies Manual implies but does not clearly provide authority for such undertakings; and

**WHEREAS**, the Comptroller of the Treasury for the State of Tennessee has recommended that formal but flexible written policies be adopted by the various sub-units of Government, including municipalities; and

**WHEREAS**, the Board of Commissioners, upon recommendation by the City Attorney and by the City Manager finds it to be in the best interests of the City of Red Bank that the present personnel policy system and ordinance and Personnel Policy Manual be and the same is hereby amended so as to formally adopt a system of policies giving significant discretionary authority to the City Manager to make necessary determinations and to implement necessary and appropriate, unique, original, and extra ordinary personnel work schedules and personnel policies and procedures from time to time, in the event of a Declared Emergency and/or in the event of a declared Public Health Emergency.

**NOW THEREFORE, BE IT ORDAINED**, by the City Commission of the City of Red Bank, Tennessee, that:

#### **SECTION 1:**

That the Red Bank personnel policies Ordinance No. 15-1036 and the Red Bank Personnel Policy Manual “Exhibit A” to said Ordinance be and the same is hereby amended to provide as follows at Section 4.1 of the Personnel Policy Manual:

Add the following paragraph at the end of Section 4.1: General Provisions:

In the context of a Public Health Emergency or Declaration of Emergency initiated by the President of the United States and/or by the Governor of the State of Tennessee and/or by the Mayor of the City of Red Bank, the City Manager is authorized to activate and put into place extra ordinary policies and procedures allowing certain and selected employees to work from home, to be granted and placed upon “paid administrative leave status”, to “telecommute” and the City Manager is further authorized to take such other actions and/or combinations of actions with respect to same as shall be deemed, at that time, appropriate and necessary at such time or times in order to maintain essential services by the City of Red Bank and to further maintain such functions and/or policies or variants thereof during the continuance of any such declared Emergency or any such Public Health Emergency and as may seem necessary or appropriate.

The City Manager, upon the implementation of any such policy and/or policies and/or procedures, shall report the same to the City Commission, collectively by email and/or by telephonic communication or by any other means. The City Commission, acting in a specially called and/or regularly scheduled meeting of the City Commission, is authorized to rescind, revise, override and/or approve the City Manager’s action(s) by Ordinance and/or by resolution.

## SECTION 2:

That the Red Bank personnel policies Ordinance No. 15-1036 and the Red Bank Personnel Policy Manual “Exhibit A” to said Ordinance be and the same is hereby amended to provide as follows at Section 6.1 of the Personnel Policy Manual:

Add the following paragraph at the end of Section 6.1: Administration:

See also provisions related to Emergency Declarations in Section 4.1 hereof.

## SECTION 3:

That the Red Bank personnel policies Ordinance No. 15-1036 and the Red Bank Personnel Policy Manual “Exhibit A” to said Ordinance be and the same is hereby amended to provide as follows at Section 7.3(d) of the Personnel Policy Manual:

Add the following paragraph at the end of Section 7.3(d): City Manager Approval:

See also provisions related to Emergency Declarations in Section 4.1 hereof.

## SECTION 4:

That the Red Bank personnel policies Ordinance No. 15-1036 and the Red Bank Personnel Policy Manual “Exhibit A” to said Ordinance be and the same is hereby amended to provide as follows at Section 8.1(A) of the Personnel Policy Manual:

Add the following paragraph at the end of Section 8.1(A): Regular Working Hours:

See also provisions related to Emergency Declarations in Section 4.1 hereof.

**BE IT FURTHER ORDAINED**, that every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

**BE IT FURTHER ORDAINED**, that any such personnel actions as described hereinabove heretofore undertaken by the City Manager during the time period beginning March 1, 2020 and up through and including the date of the approval of this Ordinance on second and final reading is and are hereby specifically ratified and affirmed.

**FINALLY, BE IT ORDAINED** that this ordinance shall take effect from and after the date of its final passage, subject to the time limited provisions set forth hereinabove and until such time as the same shall be further modified, superseded and/or overridden by the City Commission of the City of Red Bank, Tennessee, all being required by the public welfare of the City of Red Bank, Tennessee and shall be forthwith “added” to the printed and electronically preserved and maintained versions of the Red Bank Personnel Policies Manual.

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MAYOR

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CITY RECORDER

**April 21, 2020**

PASSED ON FIRST READING

**May 5, 2020**

PASSED ON SECOND AND FINAL READING

APPROVED AS TO FORM:

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CITY ATTORNEY



## ORDINANCE NO. 20-1169

### AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO AMEND THE FY 2020 OPERATING BUDGET YEAR END APPROPRIATION OVERAGES

**WHEREAS**, the City of Red Bank has the FY 2020 Operating Budget appropriated through Ordinance #19-1155; and

**WHEREAS**, Section 3 of the Ordinance states that at the end of the fiscal year, the Finance Director is authorized to transfer funds as necessary in order that budgeted appropriations not be exceeded in each Department and that the transfer of funds shall not result in an increase in the total Fiscal Year 2020 Budget; and

**WHEREAS**, it is necessary for the City of Red Bank to request Commission approval to increase the total funding in the FY 2020 Operating Budget for items which have exceeded budgeted appropriations, were not anticipated, or are carry-over items from the previous fiscal year; and

**WHEREAS**, funding is available from various revenue sources which will balance the increase in expenditure appropriations.

**NOW, THEREFORE, BE IT ORDAINED** by the Commission of the City of Red Bank, Tennessee, as follows:

SECTION 1. That the FY 2020 Operating Budget be and is hereby amended to increase the revenue and expenditure appropriations as provided:

#### **GENERAL FUND REVENUES**

Grant Funding	\$ 2,323,278.02
<b>TOTAL REVENUES</b>	<b><u>\$ 2,323,278.02</u></b>

#### **EXPENDITURES**

Police – THSO Grant	\$ 40,000.00
Public Works – TIP Projects	\$ 2,265,278.02
HIDTA – Overtime/Benefits	\$ 18,000.00
<b>TOTAL EXPENDITURES</b>	<b><u>\$ 2,323,278.02</u></b>

SECTION 2. This ordinance shall take effect upon the date of its passage upon second and final reading, the welfare of the citizens of the City of Red Bank requiring it.

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Mayor

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City Recorder

May, 19, 2020  
Approved on First Reading

June 2, 2020  
Approved on Second Reading

Approved as to Form:

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City Attorney

## ORDINANCE NO. 20-1170

### AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE ADOPTING THE ANNUAL BUDGET AND TAX RATE OF \$1.39 FOR THE FISCAL YEAR BEGINNING JULY 1, 2020 AND ENDING JUNE 30, 2021

WHEREAS, *Tennessee Code Annotated* Title 9 Chapter 1 Section 116 requires that all funds of the State of Tennessee and all its political subdivisions shall first be appropriated before being expended and that only funds that are available shall be appropriated; and

WHEREAS, the Municipal Budget Law of 1982 requires that the governing body of each municipality adopt and operate under an annual budget ordinance presenting a financial plan with at least the information required by that state statute, that no municipality may expend any moneys regardless of the source except in accordance with a budget ordinance and that the governing body shall not make any appropriation in excess of estimated available funds; and

WHEREAS, the Board of Mayor and Commissioner's has published the annual operating budget and budgetary comparisons of the proposed budget with the prior year (actual) and the current year (estimated) in a newspaper of general circulation not less than ten (10) days prior to the meeting where the Board will consider final passage of the budget.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF MAYOR AND COMMISSIONERS OF THE CITY OF RED BANK, TENNESSEE AS FOLLOWS:

SECTION 1: That the governing body projects anticipated revenues from all sources and appropriations and planned expenditures for each department, boards, office or other agency of the municipality, herein presented together with the actual annual receipts and expenditures of the last preceding fiscal year and the estimated annual expenditures for the current fiscal year, and from those revenues and unexpected and unencumbered funds as follows for fiscal year 2021, and including the projected ending balances for the budget year; the actual ending balance for the most recent ended fiscal year and the estimated ending fund balances for the current fiscal year:

GENERAL FUND	Actual FY 2019	Estimated FY 2020	Budget FY 2021
<b><u>Cash Receipts</u></b>			
Local Taxes	\$ 5,046,577.00	\$ 4,950,015.00	\$ 4,918,300.00
State Shared Taxes	\$ 1,086,335.00	\$ 1,071,634.00	\$ 1,018,500.00
Other Revenue Sources	\$ 459,149.00	\$ 356,742.00	\$ 284,798.00
<b>Total Cash Receipts</b>	<b>\$ 6,592,061.00</b>	<b>\$ 6,378,391.00</b>	<b>\$ 6,221,598.00</b>
<b><u>Appropriations</u></b>			
Judicial	\$ 145,014.00	\$ 143,624.00	\$ 146,884.00
Legislative	\$ 77,791.00	\$ 34,370.00	\$ 51,705.00
Finance & Administration	\$ 673,550.00	\$ 636,313.00	\$ 661,932.00
Insurance	\$ 849,264.00	\$ 924,201.00	\$ 950,400.00
Police	\$ 1,842,345.00	\$ 1,771,732.00	\$ 1,943,151.00

Fire	\$ 1,338,841.00	\$ 1,245,627.00	\$ 1,412,734.00
Public Works	\$ 2,398,148.00	\$ 1,361,671.00	\$ 1,517,466.00
Parks	\$ 86,010.00	\$ 108,241.00	\$ 100,025.00
<b>Total Appropriations</b>	<b>\$ 7,410,963.00</b>	<b>\$ 6,225,779.00</b>	<b>\$ 6,784,297.00</b>
<b>Surplus / (Deficit)</b>	<b>\$ (818,902.00)</b>	<b>\$ 152,612.00</b>	<b>\$ (562,699.00)</b>
Beginning Fund Balance	\$ 7,773,499.00	\$ 6,954,597.00	\$ 7,107,209.00
Ending Fund Balance	\$ 6,954,597.00	\$ 7,107,209.00	\$ 6,544,510.00

<b>STATE STREET AID</b>	<b>Actual FY 2019</b>	<b>Estimated FY 2020</b>	<b>Budget FY 2021</b>
<b><u>Cash Receipts</u></b>			
State Highway and Street Fund	\$ 407,066.00	\$ 426,084.00	\$ 400,000.00
Interest Earnings	\$ 24,874.00	\$ 22,336.00	\$ 10,000.00
Insurance Recovery	\$ 10,811.00	\$ 2,100.00	\$ -
<b>Total Cash Receipts</b>	<b>\$ 442,751.00</b>	<b>\$ 450,520.00</b>	<b>\$ 410,000.00</b>
<b><u>Appropriations</u></b>			
Operation	\$ 144,932.00	\$ 129,244.00	\$ 179,150.00
Debt Service	\$ 57,381.00	\$ 178,102.00	\$ 176,022.00
Capital	\$ 109,459.00	\$ 14,057.00	\$ 32,850.00
<b>Total Appropriations</b>	<b>\$ 311,772.00</b>	<b>\$ 321,403.00</b>	<b>\$ 388,022.00</b>
<b>Surplus / (Deficit)</b>	<b>\$ 130,979.00</b>	<b>\$ 129,117.00</b>	<b>\$ 21,978.00</b>
Beginning Fund Balance	\$ 1,251,709.00	\$ 1,382,688.00	\$ 1,511,805.00
Ending Fund Balance	\$ 1,382,688.00	\$ 1,511,805.00	\$ 1,533,783.00

<b>SOLID WASTE</b>	<b>Actual FY 2019</b>	<b>Estimated FY 2020</b>	<b>Budget FY 2021</b>
<b><u>Cash Receipts</u></b>			
Sanitation Charges	\$ 922,917.00	\$ 905,304.00	\$ 900,000.00
Interest Earnings	\$ 11,607.00	\$ 10,725.00	\$ 10,000.00
Insurance Recovery	\$ -	\$ -	\$ -
Other Revenue Sources	\$ 36,861.00	\$ 3,867.00	\$ -
<b>Total Cash Receipts</b>	<b>\$ 971,385.00</b>	<b>\$ 919,896.00</b>	<b>\$ 910,000.00</b>
<b><u>Appropriations</u></b>			
Personnel	\$ 399,410.00	\$ 429,535.00	\$ 449,797.00
Operations	\$ 278,561.00	\$ 316,026.00	\$ 318,975.00
Debt Service	\$ -	\$ -	\$ -
Capital	\$ 22,845.00	\$ 190,000.00	\$ 555,000.00
<b>Total Appropriations</b>	<b>\$ 700,816.00</b>	<b>\$ 935,561.00</b>	<b>\$ 1,323,772.00</b>
<b>Surplus / (Deficit)</b>	<b>\$ 270,569.00</b>	<b>\$ (15,665.00)</b>	<b>\$ (413,772.00)</b>
Beginning Fund Balance	\$ 739,293.00	\$ 1,009,862.00	\$ 994,197.00

Ending Fund Balance	\$ 1,009,862.00	\$ 994,197.00	\$ 580,425.00
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<b>STORMWATER FUND</b>	<b>Actual FY 2019</b>	<b>Estimated FY 2020</b>	<b>Budget FY 2021</b>
<b><u>Cash Receipts</u></b>			
Property Taxes (Prior Year)	\$ -	\$ -	\$ -
Interest / Penalty	\$ 1,433.00	\$ 887.00	\$ 500.00
Interest Earnings	\$ 3,585.00	\$ 2,693.00	\$ 1,700.00
Stormwater Fees	\$ 266,747.00	\$ 273,262.00	\$ 310,000.00
<b>Total Cash Receipts</b>	<b>\$ 271,765.00</b>	<b>\$ 276,842.00</b>	<b>\$ 312,200.00</b>
<b><u>Appropriations</u></b>			
Personnel	\$ 138,063.00	\$ 117,893.00	\$ 122,631.00
Operations	\$ 104,788.00	\$ 118,394.00	\$ 118,910.00
Capital	\$ 35,950.00	\$ 426,881.00	\$ 70,600.00
<b>Total Appropriations</b>	<b>\$ 278,801.00</b>	<b>\$ 663,168.00</b>	<b>\$ 312,141.00</b>
<b>Surplus / (Deficit)</b>	<b>\$ (7,036.00)</b>	<b>\$ (386,326.00)</b>	<b>\$ 59.00</b>
Beginning Fund Balance	\$ 361,617.00	\$ 354,581.00	\$ (31,745.00)
Ending Fund Balance	\$ 354,581.00	\$ (31,745.00)	\$ (31,686.00)

<b>DRUG FUND</b>	<b>Actual FY 2019</b>	<b>Estimated FY 2020</b>	<b>Budget FY 2021</b>
<b><u>Cash Receipts</u></b>			
Impound Fees	\$ 675.00	\$ -	\$ -
Drug Related Fines	\$ 10,728.00	\$ 3,440.00	\$ 2,000.00
DEA Asset Sharing Pmts	\$ -	\$ 34,155.00	\$ 15,000.00
Interest Earnings	\$ 1,358.00	\$ 1,143.00	\$ 100.00
Sale of Equipment	\$ 17,451.00	\$ 10,645.00	\$ 2,500.00
Insurance Recovery	\$ 1,240.00	\$ -	\$ -
Drug Seizures	\$ 46,062.00	\$ 677.00	\$ 15,000.00
<b>Total Cash Receipts</b>	<b>\$ 77,514.00</b>	<b>\$ 50,060.00</b>	<b>\$ 34,600.00</b>
<b><u>Appropriations</u></b>			
Operations	\$ 9,683.00	\$ 33,137.00	\$ 8,500.00
Capital	\$ 62,538.00	\$ 7,440.00	\$ 106,940.00
<b>Total Appropriations</b>	<b>\$ 72,221.00</b>	<b>\$ 40,577.00</b>	<b>\$ 115,440.00</b>
<b>Surplus / (Deficit)</b>	<b>\$ 5,293.00</b>	<b>\$ 9,483.00</b>	<b>\$ (80,840.00)</b>
Beginning Fund Balance	\$ 90,689.00	\$ 95,982.00	\$ 105,465.00
Ending Fund Balance	\$ 95,982.00	\$ 105,465.00	\$ 24,625.00

<b>IMPOUND FUND</b>	<b>Actual FY 2019</b>	<b>Estimated FY 2020</b>	<b>Budget FY 2021</b>
<b><u>Cash Receipts</u></b>			
Impoundment Charges	\$ -	\$ -	\$ -
Impoundment Fees	\$ 135.00	\$ -	\$ -
Sale of Equipment	\$ 9,202.00	\$ 10,439.00	\$ 10,000.00
<b>Total Cash Receipts</b>	<b>\$ 9,337.00</b>	<b>\$ 10,439.00</b>	<b>\$ 10,000.00</b>
<b><u>Appropriations</u></b>			
Operations	\$ 1,782.00	\$ 125.00	\$ 6,750.00
Capital	\$ -	\$ -	\$ -
<b>Total Appropriations</b>	<b>\$ 1,782.00</b>	<b>\$ 125.00</b>	<b>\$ 6,750.00</b>
<b>Surplus / (Deficit)</b>	<b>\$ 7,555.00</b>	<b>\$ 10,314.00</b>	<b>\$ 3,250.00</b>
Beginning Fund Balance	\$ 4,647.00	\$ 12,202.00	\$ 22,516.00
Ending Fund Balance	\$ 12,202.00	\$ 22,516.00	\$ 25,766.00

<b>SEWER FUND</b>	<b>Actual FY 2019</b>	<b>Estimated FY 2020</b>	<b>Budget FY 2021</b>
<b><u>Cash Receipts</u></b>			
Interest Earnings	\$ 714.00	\$ 456.00	\$ 100.00
Rent - Sewer Plant	\$ 8,413.00	\$ 8,413.00	\$ 8,413.00
Contributions from WWTa	\$ 492,204.00	\$ 492,204.00	\$ 492,204.00
<b>Total Cash Receipts</b>	<b>\$ 501,331.00</b>	<b>\$ 501,073.00</b>	<b>\$ 500,717.00</b>
<b><u>Appropriations</u></b>			
Operations	\$ 492,204.00	\$ 516,595.00	\$ 492,204.00
<b>Total Appropriations</b>	<b>\$ 492,204.00</b>	<b>\$ 516,595.00</b>	<b>\$ 492,204.00</b>
<b>Surplus / (Deficit)</b>	<b>\$ 9,127.00</b>	<b>\$ (15,522.00)</b>	<b>\$ 8,513.00</b>
Beginning Fund Balance	\$ 42,057.00	\$ 51,184.00	\$ 35,662.00
Ending Fund Balance	\$ 51,184.00	\$ 35,662.00	\$ 44,175.00

SECTION 2: At the end of the fiscal year 2020; the governing body estimates fund balances or deficits as follows:

General Fund	\$ 7,107,209.00
State Street Aid Fund	\$ 1,511,805.00
Solid Waste Fund	\$ 994,197.00
Sewer Fund	\$ 35,662.00
Stormwater Fund	\$ (31,745.00)
Drug Fund	\$ 105,465.00
Impound Fund	\$ 22,516.00

SECTION 3: That the governing body herein certifies that the condition of its sinking funds, if applicable, are compliant pursuant to its bond covenants, and recognizes that the municipality has outstanding bonded and other indebtedness as follows:

<b>Debt Principal</b>	<b>Interest Requirements</b>	<b>Debt Authorized and Unissued</b>	<b>Principal Outstanding at June 30</b>
\$ 95,000	\$ 7,605	\$ 0	\$ 2,484,100
\$ 190,000	\$ 60,095		

SECTION 4: During the coming fiscal year (2021) the governing body has pending and planned capital projects with proposed funding as follows:

<b>Proposed Capital Projects</b>	<b>Proposed Amount Financed by Appropriations</b>	<b>Proposed Amount Financed by Debt</b>
\$ 285,487	\$ 285,487	

SECTION 5: No appropriation listed above may be exceeded without an amendment of the budget ordinance as required by the Municipal Budget Law of 1982 T.C.A. Section 6-56-208 et seq.. In addition, no appropriation may be made in excess of available funds except to provide for an actual emergency threatening the health, property or lives of the inhabitants of the municipality and declared by a two-thirds (2/3) vote of at least a quorum of the governing body in accord with Section 6-56-205 of the *Tennessee Code Annotated*.

SECTION 6: Money may be transferred from one appropriation to another in the same fund in an amount of up to \$1,000 by the Finance Director, subject to such limitations and procedures as set by Section 6-56-209 of the Tennessee Code Annotated. Any resulting transfers shall be reported to the governing body at its next regular meeting and entered into the minutes.

SECTION 7: A detailed financial plan will be attached to this budget and become part of this budget ordinance. In addition, the published operating budget and budgetary comparisons shown by fund with beginning and ending fund balances and the number of full time equivalent employees required by Section 6-56-206, *Tennessee Code Annotated* will be attached.

SECTION 8: There is hereby levied a property tax of \$1.39 per \$100 of assessed value on all real property located in the City.

SECTION 9: The annual operating and capital budget ordinance and supporting documents shall be submitted to the Comptroller of the Treasury or Comptrollers' Designee for approval if the City has debt issued pursuant to Title 9, Chapter 21, of the Tennessee Code Annotated, within fifteen (15) days of its adoption. This budget shall not become the official budget for the fiscal year until such budget is approved by the Comptroller of the Treasury or Comptroller's Designee, in accordance with Title 9, Chapter 21 of the Tennessee Code Annotated (the "Statutes"). If the Comptroller of the Treasury or Comptroller's Designee determines that the budget does not comply with the Statutes, the Governing Body shall adjust the estimates or make additional tax levies sufficient to comply with the Statutes or as directed by the Comptroller of the Treasury or Comptroller's Designee. If the City does not have such debt outstanding, it will file this annual operating and capital budget ordinance and supporting documents with the Comptroller of the Treasury or the Comptroller's Designee.

SECTION 10: All unencumbered balances of appropriations remaining at the end of the fiscal year shall lapse and revert to the respective fund balances.

SECTION 11: All ordinances or parts of ordinances in conflict with any provision of this ordinance are hereby repealed.

SECTION 12: This ordinance shall take effect July 1, 2020, the public welfare requiring it.

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Mayor

ATTESTED:

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City Recorder

June 2, 2020

Approved on First Reading

June 16, 2020

Approval on Second and Final Reading

Approved as to Form:

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City Attorney



## **ORDINANCE NO. 20-1171**

### **AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, AMENDING THE ZONING ORDINANCE AND MAPS OF THIS CITY TO CONDITIONALLY REZONE PROPERTY LOCATED AT 14 KINGSTON STREET FROM R-1 RESIDENTIAL TO R-T/Z TOWNHOUSE/ZERO LOT LINE RESIDENTIAL, SUBJECT TO CERTAIN CONDITIONS**

**WHEREAS**, *Tennessee Code Annotated* (TCA) § 13-7-201 allows municipal governments the authority to regulate land use through zoning of its jurisdictional territory; and

**WHEREAS**, the Red Bank Municipal Planning Commission has certified zoning districts as provided for in TCA § 13-7-202; and

**WHEREAS**, TCA §13-7-204 authorizes amendments to the municipal zoning map and provides for that process; and

**WHEREAS**, the applicant, Josh Barr, who has a contract to purchase the property located at 14 Kingston Street, and has requested that the property located at 14 Kingston Street, Hamilton County Tax Map Parcel No. 118A F 004, depicted herein as Exhibit A and more particularly described herein as Exhibit B, from R-1 Residential zone to R-T/Z Townhouse/Zero Lot Line Residential; and

**WHEREAS**, the Southeast Tennessee Development District planning staff recommended conditionally approving the request because the additional permitted land uses of the R-T/Z zone would not have a negative impact on adjacent land uses; and

**WHEREAS**, the Red Bank Planning Commission held an advertised public hearing on this matter on May 21<sup>st</sup>, 2020; and

**WHEREAS**, the Red Bank Planning Commission heard and considered all statements favoring or opposing the requested rezoning, including that of the Southeast Tennessee Development District planning staff; and

**WHEREAS**, the Red Bank Planning Commission on May 21, 2020 has studied the petition in relation to existing zoning and land use and potential patterns of development and finds that if the utilization of the property is not to be attached townhouses, it would not have a negative impact on adjacent land uses, and the Red Bank Planning Commission has recommended approving the request to rezone the property to R-T/Z Townhouse/Zero Lot Line Residential, subject to the restrictions and conditions that the R-T/Z usage shall be limited to Single - Family homes.

**WHEREAS**, the City Commission, upon notice, held a public hearing in conjunction with the regularly scheduled Commission Meeting on June 16, 2020; and

**WHEREAS**, the City Commission, having studied the recommendations of the Southeast Tennessee Development District planning staff and of the Red Bank Planning Commission, finds that the requested use, subject to the conditions recommended by the Red Bank Planning Commission, would not have a negative impact on adjacent land uses, is a reasonable extension

of existing zones in the area.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RED BANK,  
TENNESSEE, AS FOLLOWS:**

SECTION 1. The Zoning Ordinances and Zoning Maps of this City of Red Bank are hereby amended by conditionally rezoning from R-1 Residential to R-T/Z Townhouse/Zero Lot Line Residential, limited to single-family homes only, the property located at 14 Kingston Street, Tax Map Parcel No. 118A F 004, subject to the following condition:

- a) Attached townhouses shall not be constructed on the property.
- b) If the Owner and Applicant does not accept the limiting conditions and restrictions within sixty (60) days next following approval on second and final reading, the Ordinance shall automatically become null and void.

SECTION 2. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 3. The zoning maps of this city shall be amended so as to conditionally reflect R-T\Z, but subject to the condition that townhouses shall not be a permitted use on this property, for the property described herein above and that said maps make specific reference to this Ordinance, with the restriction noted on the zoning map.

SECTION 4. Every section, sentence, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

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MAYOR

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CITY RECORDER

**June 16, 2020**

PASSED ON FIRST READING

**July 7, 2020**

PASSED ON SECOND READING AND FINAL READING

APPROVED AS TO FORM:

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CITY ATTORNEY

ACCEPTED, ACKNOWLEDGED AND  
AGREED AS TO THE LIMITING FACTORS,  
CONDITIONS AND REQUIREMENTS HEREOF

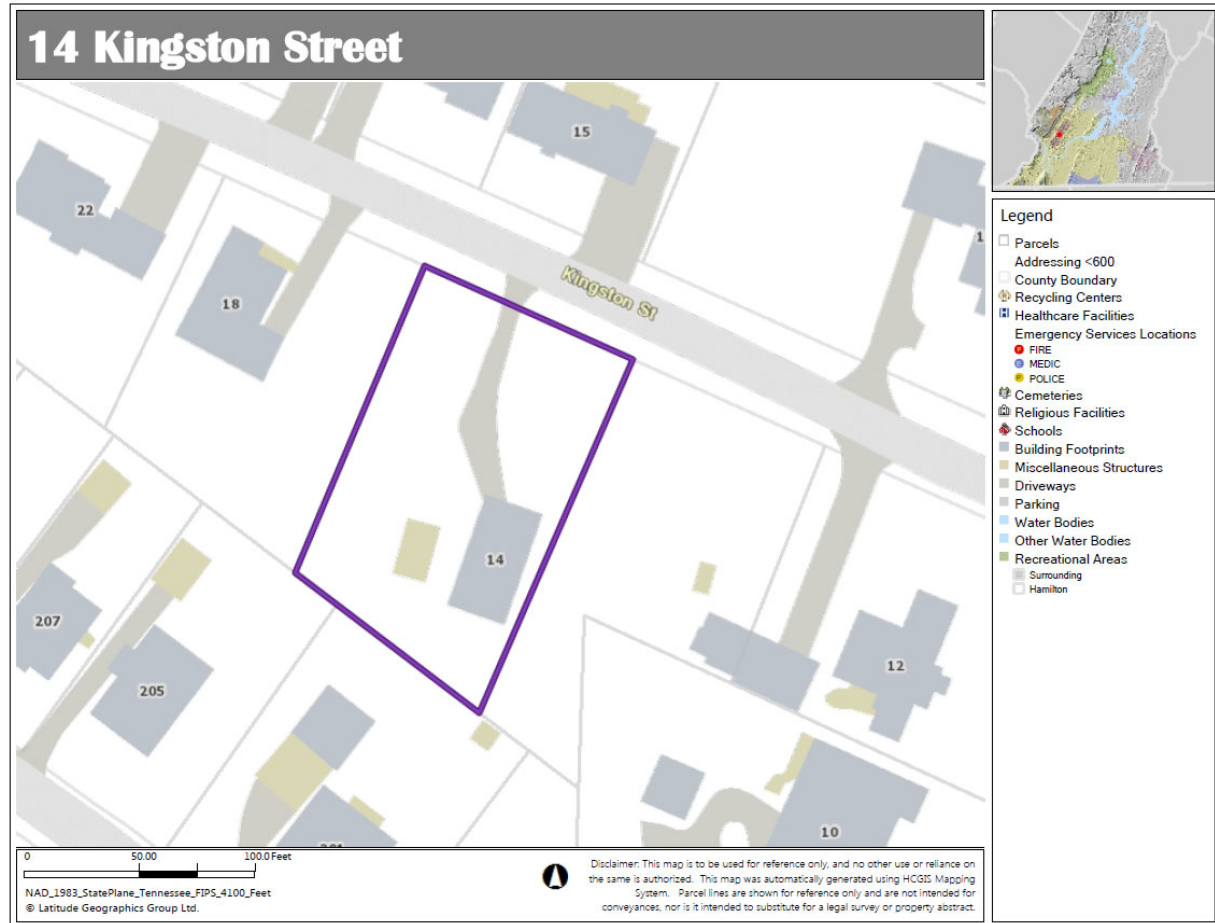
ROBERT GARROTT

BY: \_\_\_\_\_  
Owner

JOSH BARR

BY: \_\_\_\_\_  
Applicant

## EXHIBIT A: PARCEL MAP



**EXHIBIT B: WARRANTY DEED**

BOOK 3395 PAGE 161

File #877309 rs  
 Grantee's Address Robert W. Garrott Mail Tax Bills To Lane Map Parcel No. 118 A F CC4  
#14 Kingston St.  
Wm. Lane, P.M.

**WARRANTY DEED**

IN CONSIDERATION of One (\$1.00) Dollar and other valuable considerations paid the receipt of all of which is hereby acknowledged: WE, ROBERT E. WRIGHT and RAY F. LEWIS hereby declaring that we hold the herein described property as Tenants in Common, and that the same has not been divided by Parol Agreement or otherwise, do hereby sell, transfer, and convey unto: ROBERT W. GARROTT, unmarried the following described real estate in the Third Civil District of Hamilton County, Tennessee:

Beginning at a stake in the South line of Kingston Street, as shown by Mahoney's Subdivision B, as surveyed and mapped by J. A. Lane, C. E., February 5, 1941, which plat is recorded in Plat Book 15, page 25, in the Register's Office Hamilton County, Tennessee; thence South 21 degrees 45 minutes West along the East line of Lot Number Twelve in said Subdivision, a distance of 149 feet to a stake; thence South 54 degrees 25 minutes East a distance of 100 feet to a stake; thence North 21 degrees 45 minutes East a distance of 149 feet, more or less, to a stake in the South line of Kingston Street; thence North 86 degrees West along the South line of Kingston Street, a distance of 100 feet to the point of beginning. The said lot herein conveyed fronts 100 feet on the South line of Kingston and extends back Southwardly of uniform width along the East line of Lot Number Twelve in said Subdivision a distance of 149 feet, more or less, to the South line of the J. E. Mahoney tract of land.

Last recorded Deed and prior title in Book 3312, page 376, said Register's Office.

**THIS CONVEYANCE IS MADE SUBJECT TO THE FOLLOWING:**

Any governmental zoning and subdivision ordinances or regulations in effect thereon.

Taxes for the year of 1987 are to be prorated between the Grantors and the Grantees of even date herewith.

TO HAVE AND TO HOLD the same unto the said ROBERT W. GARROTT, his heirs and assigns, forever in fee simple. We, covenant that we are lawfully seized and possessed of said real estate, have full power and lawful authority to sell and convey the same; that the title thereto is clear, free and unencumbered except as hereinabove mentioned, and we will forever warrant and defend the same against all lawful claims.

And for sufficient consideration, SHIRLEY A. WRIGHT, wife of ROBERT E. WRIGHT, and ESTHER R. LEWIS, wife of Ray F. Lewis, does hereby join in this instrument for the purpose of quitclaiming any right, title and interest they may have if any, to the herein described property.

WITNESS our hands this 29th day of

August, 1987.

Robert E. Wright  
ROBERT E. WRIGHT

Shirley A. Wright  
SHIRLEY A. WRIGHT

Ray F. Lewis  
RAY F. LEWIS

Esther R. Lewis  
ESTHER R. LEWIS

STATE OF TENNESSEE  
COUNTY OF HAMILTON

Before me personally appeared ROBERT E. WRIGHT and wife, SHIRLEY A. WRIGHT to me known (or proved to me on the basis of satisfactory evidence) to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

WITNESS my hand and seal this 28 day of August, 1987.

L. D. Wilson  
NOTARY PUBLIC

My Commission Expires: My Commission Expires Oct. 4, 1989

STATE OF TENNESSEE  
COUNTY OF HAMILTON  
KNOX

Before me personally appeared RAY F. LEWIS and wife, ESTHER R. LEWIS to me known (or proved to me on the basis of satisfactory evidence) to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

WITNESS my hand and seal this 29 day of August, 1987.

Robert F. Lewis  
NOTARY PUBLIC

My Commission Expires: 5-21-91

STATE OF TENNESSEE  
COUNTY OF HAMILTON

I (or we) hereby offering this instrument for recording within the meaning of the Statutes of the State of Tennessee, under TCA Code Section 67-4102, Item (s), hereby swear or affirm that the actual consideration for this transfer or value of the property transferred, whichever is greater, is \$ 21,000.00, which amount is equal to or greater than the amount which the property transferred would command at a fair and voluntary sale.

Robert F. Lewis  
AFFIANT

Sworn to and subscribed before me this 28 day of Sept., 1987.

Sarah P. DeFriesse, Register  
NOTARY PUBLIC

My Commission Expires: S. P. DeFriesse

IDENTIFICATION  
REFERENCE

SEP 2 3 23 PM '87

SARAH P. DE FRIESE  
REGISTER  
HAMILTON COUNTY  
STATE OF TENNESSEE

09/02/87  
09/02/87  
09/02/87

CONV  
CTAX  
PFEE

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**ORDINANCE NO. 20-1172**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE TO AMEND THE ZONING ORDINANCE NO. 15-1020 CODIFIED AT RED BANK CITY CODE TITLE 14, CHAPTER VII, SECTIONS 14-701 et. seq.**

**WHEREAS**, the City of Red Bank finds that protection of the health, safety, and welfare supports the regulation of adult-oriented establishments, and

**WHEREAS**, in enacting this Ordinance, the Commission considered evidence of secondary negative effects from outside Hamilton County including the Houston, Texas City Council's "Sexually Oriented Business Ordinance Revision Committee Legislative Report" dated January 7, 1997; the Newport News, Virginia "Adult Use Study" dated March 1996; and a "Report to: The American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses" produced by Peter Hech, Ph.D. dated March 31, 1996 ; and

**WHEREAS**, the Commission also considered evidence of secondary negative effects relating to Hamilton County, including the "Community Protection Committee's Final Report on Vice in Hamilton County with Recommendations" to the Hamilton County Executive and the Board of Commissioners, and the Mayor and the Members of the Chattanooga City including: Broadway Books v. Roberts, 642 F. Supp. 486 (E.D. Tenn. 1986); DLS, Inc. v. City of Chattanooga, 894 F. Supp. 1140 (E.D. Tenn. 1995); and City of Chattanooga v. Cinema 1, Inc., No. E2003-01038-COA-R3-CV, in the Court of Appeals of Tennessee, April 13, 2004; and

**WHEREAS**, the City Commission determines that the current provisions of Sections 14-701 et. seq., should be amended and revised;

**NOW THEREFORE, BE IT ORDAINED by the City Commission of Red Bank, Tennessee;**

**SECTION I:**

The provisions of Title 14, Chapter VII, Sections 14-701 of the Red Bank City Code are repealed in their entirety and there is substituted in its place and stead the following:

**SECTION II:**

**SECTION 14-701 – Adult Oriented Establishments; Findings and purpose.**

(a) The City Commission of the City of Red Bank, Tennessee, finds:

- (1) That homogeneous and heterogeneous masturbatory acts and other sexual acts, including oral sex acts, have been being done in adult-oriented establishments in the City of Chattanooga.
- (2) The City of Red Bank is geographically unique in that its City Limits are geographically surrounded by the City of Chattanooga and Red Bank is in effect a political island encompassed by the City of Chattanooga.
- (3) That offering and providing such space, areas, and rooms where such activities may take place creates or potentially creates conditions that generate prostitution and other crimes.
- (4) That several days and nights of the week such adult-oriented establishments, particularly adult book stores containing mini-motion picture facilities, in the City of Chattanooga are or have been historically overcrowded and contained more persons than such structures can safely accommodate resulting in a definite fire hazard since in the event of fire such persons would not be able to safely leave all the cubicles, booths and rooms of such establishments.
- (5) That male prostitutes, particularly teenage males, have frequented said establishments for the purpose of providing, within the premises of such establishments, sex-for-hire.
- (6) That permitting unregulated operation of adult-oriented establishments in the City of Red Bank would be detrimental to the general welfare, health, and safety of the citizens of the City of Red Bank.
- (7) That there exists the undesirable probability and/or possibility of spill over and location of same or all of such undesirable activities from the City of Chattanooga to the City of Red Bank if and in the event that reasonable and lawful regulation of such (possible) situations are not duly regulated in the City of Red Bank and Red Bank's ordinances regarding same are not updated.
- (8) That Red Bank's Ordinances regulating such activities and or potential activities, occurrences and/or business have not been updated in several years.
- (b) It is the purpose of this article to promote and secure the general welfare, health, and safety of the citizens of the City of Red Bank and so as not to allow an unregulated or under-regulated exception to the surrounding City of Chattanooga's regulation of such activities and related businesses.

#### SECTION 14-702 - Definitions.

For the purpose of this article, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

- (a) *Adult-oriented establishment* includes, but is not limited to sexually explicit establishments which cater to an exclusively or predominantly adult clientele and offer adult entertainment for business purposes such as: adult bookstores, adult motion picture theaters, adult cabarets, escort agencies, sexual encounter centers, massage parlors, adult



saunas, adult video stores, and other enterprises which regularly feature materials, acts or displays involving complete nudity or exposure of the "Specified Anatomical Areas" herein below defined and/or sexual excitement or enticement. Adult-oriented Establishment further includes, without being limited to, any adult entertainment studio or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, exotic dance studio, encounter studio, sensitivity studio, model studio, escort service, lingerie studio or any other term of like import which regularly feature materials, acts or displays involving complete nudity or exposure of the "Specified Anatomical Areas" herein below defined for sexual excitement or enticement as a business purpose.

(b) *Adult bookstore* means a commercial establishment which, as one (1) of its principal business purposes, offers for sale or rental for any form of consideration any one (1) of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, sexual devices, video cassettes, compact discs, digital video discs, slides, or other visual representations of sexual conduct which are characterized by their emphasis on the display of "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined below) and in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, and including adult-oriented films, movies, or live entertainment, for observation by patrons therein. A business purpose for purposes of these definitions shall be a principal business purpose if any one (1) or more of the following criteria applies:

- (1) A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
- (2) A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
- (3) A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
- (4) A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
- (5) A principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or
- (6) The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.

(c) *Adult cabaret* Any restaurant, bar, dance hall, nightclub or other such public place which as one (1) of its principal business purposes regularly features entertainment of an erotic nature, including exotic dancers, go-go dancers, strippers, male or female impersonators or similar entertainers, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right

of way. A business purpose for purposes of these definitions shall be a principal business purpose if any one (1) or more of the following criteria applies:

- (1) A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
- (2) A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
- (3) A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
- (4) A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
- (5) A principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or
- (6) The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.

(d) *Adult mini-motion picture theater* means an enclosed building with a capacity of less than fifty (50) persons regularly used for its principal business purposes to present material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Sexual Conduct," "Specified Sexual Activities" or "Specified Anatomical Areas," as defined below, for observation by patrons therein. A business purpose for purposes of these definitions shall be a principal business purpose if any one (1) or more of the following criteria applies:

- (1) A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
- (2) A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
- (3) A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
- (4) A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
- (5) A principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or
- (6) The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.

- (e) *Adult motion picture theater* means any public place, whether open or enclosed, which is used as one (1) of its principal business purposes for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "Sexual Conduct," "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined below) for observation by patrons therein. A business purpose for purposes of these definitions shall be a principal business purpose if any one (1) or more of the following criteria applies:
- (1) A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
  - (2) A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
  - (3) A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
  - (4) A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
  - (5) A principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or
  - (6) The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.
- (f) *Adult Video Store* means a commercial establishment which, as one (1) of its principal business purposes, offers for sale or rental for any form of consideration any one (1) of the following: photographs, films, motion pictures, sexual devices, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis on the display of "Sexual Conduct," "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined below). A business purpose for purposes of these definitions shall be a principal business purpose if any one (1) or more of the following criteria applies:
- (1) A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
  - (2) A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
  - (3) A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
  - (4) A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
  - (5) A principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or

- (6) The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.
- (g) *City Commission* means the City Commission of the City of Red Bank, Tennessee.
- (h) *Employee* means any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult-oriented establishment.
- (i) *Entertainer* means any person who provides entertainment within an adult-oriented establishment as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.
- (j) *Adult-entertainment* means any exhibition of any adult-oriented motion picture, live performance, display or dance of any type that has as a principal portion of such performance, any actual or simulated performance of specified sexual activities or sexual conduct exhibition and viewing of any specified anatomical areas, removal of articles of clothing or appearing unclothed, including pantomime, modeling, or any other personal service offered customers involving exhibition and viewing of specified anatomical areas.
- (k) *Operator* means any person, partnership, or corporation operating, conducting or maintaining an adult-oriented establishment.
- (l) *Principal Portion* means at least thirty-three and one-third percent (33 1/3 %) of the matter, products, conduct and/or thing so described, whenever such term is used in this ordinance.
- (m) *Sauna* means an establishment or place which as one (1) of its principal business purposes is in the business of providing:
- (i) A steam bath; or
  - (ii) Massage and/or reasonably related services or conduct.

A business purpose for purposes of these definitions shall be a principal business purpose if any one (1) or more of the following criteria applies:

- (1) A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
- (2) A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
- (3) A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or

- (4) A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
  - (5) A principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or
  - (6) The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.
- (n) *School* — An academic learning center, whether public or private, from the level of nursery through twelfth grade and including secondary education centers, not limited to, but including, community colleges and universities.
- (o) *Sexual Conduct* means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, buttocks or female breast of a person for the purpose of arousing or gratifying the sexual desire of another person.
- (p) *Sexual Device* means any three-dimensional object primarily designed and marketed for the stimulation of the male or female human genital organs or anus, and shall include three-dimensional reproductions or representations of the human genital organs or anus. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for prevention of pregnancy.
- (q) *Sexual Device Shop* means a commercial establishment that regularly features sexual devices or offers for sale sexual devices as a principal portion of its business purpose. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to any portion of their premises to minors by reason of age. A business purpose for purposes of these definitions shall be a principal business purpose if any one (1) or more of the following criteria applies:
- (1) A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
  - (2) A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
  - (3) A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
  - (4) A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
  - (5) A principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or

(6) The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.

(r) *Sexual Encounter Center* means a business or commercial enterprise that, as one (1) of its principal business purposes, offers for any form of consideration:

(i) Physical contact in the form of wrestling or tumbling between persons of the opposite sex;

(ii) Physical contact between male and female persons or persons of the same sex when one (1) or more of the persons exposes to view of the persons within such establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material.

A business purpose for purposes of these definitions shall be a principal business purpose if any one (1) or more of the following criteria applies:

(1) A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or

(2) A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or

(3) A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or

(4) A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or

(5) A principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or

(6) The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.

(s) *Specified sexual activities* means:

(i) Human genitals in a state of sexual stimulation or arousal;

(ii) Acts of human masturbation, sexual intercourse or sodomy;

(iii) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.

(t) *Specified anatomical areas* means:

(1) Less than completely and opaquely covered:

(i) Human genitals,

- (ii) pubic region;
  - (iii) Buttocks;
  - (iv) Female breasts below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernibly turgid state, even if completely opaquely covered.

#### SECTION 14-703 - License required.

- (a) Except as provided in subsection (e) below, from and after the effective date of this article, no adult-oriented establishment shall be operated or maintained in the City of Red Bank without first obtaining a license to operate issued by the City of Red Bank.
- (b) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one (1) adult-oriented establishment must have a license for each.
- (c) No license or interest in a license may be transferred to any person, partnership or corporation.
- (d) It shall be unlawful for any entertainer, employee or operator to knowingly work in or about, or to knowingly perform any service directly related to the operation of any unlicensed adult-oriented establishment.
- (e) All existing adult-oriented establishments at the time of the passage of this article must submit an application for a license within one hundred twenty (120) days of the passage of this article on third and final reading. If a license is not issued within said one-hundred-twenty (120) day period, then such existing adult-oriented establishment shall cease operations.

#### SECTION 14-704 - Application for license.

- (a) Any person, partnership, or corporation desiring to secure a license shall make application to the City Manager. The application shall be filed in triplicate with and dated by the City Manager or designee. A copy of the application shall be distributed promptly by the City Manager to the Red Bank Police Department and to the applicant.
- (b) The application for a license shall be upon a form provided by the City Manager. An applicant for a license shall furnish the following information under oath:
  - (1) Name and address, including all aliases.
  - (2) Written proof that the individual is at least eighteen (18) years of age.
  - (3) All residential addresses of the applicant for the past three (3) years.
  - (4) The applicant's height, weight, color of eyes and hair.
  - (5) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.

- (6) Whether the applicant previously operated in this or any other county, city or state under an adult-oriented establishment license or similar business license: whether the applicant has ever had such a license revoked or suspended. The reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
  - (7) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
  - (8) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of the applicant.
  - (9) The address of the adult-oriented establishment to be operated by the applicant.
  - (10) The names and addresses of all persons, partnerships, or corporations holding any beneficial interest in the real estate upon which such adult-oriented establishment is to be operated, including but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.
  - (11) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.
  - (12) The length of time the applicant has been a resident of the City of Red Bank, or its environs, immediately preceding the date of the application.
  - (13) If the applicant is a corporation, the application shall specify the name, address and telephone number of the corporation, the date and state of incorporation, the name and address of the registered agent for service of process of the corporation, the names and addresses of the officers and directors of the corporation, and the names and addresses of any persons holding fifty percent (50%) or more of the stock of the corporation; if the applicant is a partnership, the application shall specify the name and address of the partnership, the name and address of all general partners of the partnership; if the partnership is a limited partnership, the application shall specify the name and address of all general partners who have a controlling interest in the partnership.
  - (14) A statement by the applicant that he or she is familiar with the provisions of this article and is in compliance with them.
  - (15) All inventory, equipment, or supplies which are to be leased, purchased, held in consignment or in any other fashion kept on the premises or any part or portion thereof for storage, display, any other use therein, or in connection with the operation of said establishment, or for resale, shall be identified in writing accompanying the application specifically designating the distributor business name, address, phone number, and representative's name.
- (c) Within ten (10) days of receiving the results of the investigation conducted by the Red Bank Police Department, the City Manager shall notify the applicant that his application is granted, denied or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon



conclusion of such additional investigation, the City Manager shall advise the applicant in writing whether the application is granted or denied.

- (d) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this article, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the City Manager.

#### SECTION 14-705- Standards for issuance of license.

- (a) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:
  - (1) If the applicant is an individual:
    - (i) The applicant shall be at least eighteen (18) years of age.
    - (ii) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.
    - (iii) The applicant shall not have been found to have previously violated this article within five (5) years immediately preceding the date of the application.
  - (2) If the applicant is a corporation:
    - (i) All officers, directors and stockholders required to be named under section 11-424(b) shall be at least eighteen (18) years of age.
    - (ii) No officer, director or stockholder required to be named under section 11-424(b) shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application;
    - (iii) No officer, director, or stockholder required to be named under section 11-424(b) shall have been found to have previously violated this article within five (5) years immediately preceding the date of the application.
  - (3) If the applicant is a partnership, joint venture, or any other type of organization where two (2) or more persons have a financial interest:
    - (i) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.
    - (ii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other

crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been found to have previously violated this article within five (5) years immediately preceding the date of the application.

(b) No license shall be issued unless the Red Bank Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the City Manager no later than twenty (20) days after the date of the application.

#### SECTION 14-706 - Permit required.

In addition to the license requirements previously set forth for owners and operators of "adult-oriented establishments," no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the City Manager.

#### SECTION 14-707 - Application for permit.

(a) Any person desiring to secure a permit shall make application to the City Manager. The application shall be filed in triplicate with and dated by the City Manager. A copy of the application shall be distributed promptly by the City Manager to the Red Bank Police Department and to the applicant.

(b) The application for a permit shall be upon a form provided by the City Manager. An applicant for a permit shall furnish the following information under oath:

- (1) Name and address, including all aliases.
- (2) Written proof that the individual is at least eighteen (18) years of age.
- (3) All residential addresses of the applicant for the past three (3) years.
- (4) The applicant's height, weight, color of eyes, and hair.
- (5) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.
- (6) Whether the applicant, while previously operating in this or any other city or state under an adult-oriented establishment permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason therefor, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation.
- (7) All criminal statutes, whether federal, state or city ordinance violation, convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (8) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of the applicant.

- (9) The length of time the applicant has been a resident of the City of Red Bank, or its environs immediately preceding the date of the application.
- (10) A statement by the applicant that he or she is familiar with the provisions of this article and is in compliance with them.
- (c) Within ten (10) days of receiving the results of the investigation conducted by the Red Bank Police Department, the City Manager shall notify the applicant that his application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the City Manager shall advise the applicant in writing whether the application is granted or denied.
- (d) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this article, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the board.

Section 14-708 - Standards for issuance of permit.

- (a) To receive a permit as an employee, an applicant must meet the following standards:
  - (1) The applicant shall be at least eighteen (18) years of age.
  - (2) The applicant shall not have been convicted of or pleaded no contest to a felony or any crime involving moral turpitude or prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.
  - (3) The applicant shall not have been found to violate any provision of this article within five (5) years immediately preceding the date of the application.
- (b) No permit shall be issued until the Red Bank Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the City Manager not later than twenty (20) days after the date of the application.

Section 14-709 - Fees.

- (a) In order to defray the cost of the investigation(s) related to the license and permit applications, a license fee of one thousand dollars (\$1,000.00) shall be submitted with the application for a license. If the application is denied, one-half (½) of the fee shall be returned.
- (b) A permit fee of one hundred dollars (\$100.00) shall be submitted with the application for a permit. If the application is denied, one-half (½) of the fee shall be returned.

SECTION 14-710 - Display of license or permit.

- (a) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.
- (b) The permit shall be carried by an employee upon his or her person and shall be displayed upon request of a customer, any member of the Red Bank Police Department, or any person designated by the City Commission.

SECTION 14-711 - Renewal of license or permit.

- (a) Every license issued pursuant to this article will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the City Manager. The application for renewal must be filed not later than sixty days (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the City Manager. A copy of the application for renewal shall be filed in triplicate with and dated by the City Manager. A copy of the application for renewal shall be distributed promptly by the City Manager to the Red Bank Police Department and to the operator/licensee/applicant. The application for renewal shall be upon a form provided by the City Manager and shall contain such information and data, given under oath or affirmation, as may be required by the City Commission.
- (b) A license renewal fee of one thousand dollars (\$1,000.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars (\$100.00) shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (½) of the total fees collected shall be returned.
- (c) If the Red Bank Police Department is aware of any information bearing on the operator/licensee's qualifications, that information shall be filed in writing with the City Manager.
- (d) Every permit issued pursuant to this article will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee is allowed to continue employment in an adult-oriented establishment in the following calendar year. Any employee desiring to renew a permit shall make application to the City Manager. The application for renewal must be filed not later than sixty (60) days before the permit expires. The application for renewal shall be filed in triplicate with and dated by the City Manager. A copy of the application for renewal shall be distributed promptly by the City Manager to the Red Bank Police Department and to the employee. The application for renewal shall be upon a form provided by the City Manager and shall contain such information and data, given under oath or affirmation, as may be required by the City Manager.
- (e) A permit renewal fee of one hundred dollars (\$100.00) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty dollars (\$50.00) shall be assessed against the applicant who files for renewal less than sixty (60) days before the license expires. If the application is denied, one-half (½) of the fee shall be returned.

- (f) If the Red Bank Police Department is aware of any information bearing on the licensee's or any employee of licensee's qualifications, that information shall be filed in writing with the City Manager.
- (g) Notwithstanding anything herein to the contrary, any application for renewal of a license or for renewal for a permit shall be handled, investigated and approved or denied within the same time periods as those established in this Article for original license applications and permit applications. In the event a license renewal application or permit renewal application is denied, the applicant shall have all rights of appeal to the City Commission as set forth in § 14-717 of this Article.

#### SECTION 14-712 - Revocation of license or permit.

- (a) The City Manager shall revoke a license or permit for any of the following reasons:
  - (1) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.
  - (2) The operator, entertainer, or any employee of the operator, violates any provision of this article or any rule or regulation adopted by the City Commission pursuant to this article; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the City Commission shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.
  - (3) The operator or employee becomes ineligible to obtain a license or permit.
  - (4) Any cost or fee required to be paid by this article is not paid within the time period provided for such payment.
  - (5) An operator employs an employee who does not have a permit or provides space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without a permit.
  - (6) Any intoxicating liquor, cereal malt beverage, narcotic or controlled substance is allowed to be sold or consumed on the licensed premises.
  - (7) Any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any adult-oriented entertainment or adult-oriented material.
  - (8) Any operator, employee or entertainer denies access of law enforcement personnel to any portion of the licensed premises wherein adult-oriented entertainment is permitted or to any portion of the licensed premises wherein adult-oriented material is displayed or sold.
  - (9) Any operator allows continuing violations of the rules and regulations of the Hamilton County Health Department and/or violations of State law or City Ordinance.

- (10) Any operator fails to maintain the licensed premises in a clean, sanitary and safe condition.
- (b) Notwithstanding anything herein to the contrary, before revoking or suspending any license or permit, the City Manager shall give the license holder or permit holder not less than ten (10) nor more than twenty (20) days' written notice of the charges against such license holder or permit holder and of the revocation of such license or permit, or of the period of time such license or permit is to be suspended; such notice shall also advise the license holder or permit holder of the license holder's or permit holder's right to request a hearing before the City Commission. In the event the license holder or permit holder does not request in writing a hearing before the City Commission within the time set forth in such notice, the suspension or revocation shall be effective beginning the date set forth in such notice.
- If the license holder or permit holder desires to request a hearing before the City Commission to contest the suspension or revocation, such request shall be made in writing to the Clerk of the City Commission within ten (10) days of the license holder's or permit holder's receipt of the notification from the City Manager. If the license holder or permit holder timely requests such a hearing, the effective date of a suspension or hearing shall be stayed pending the final outcome of judicial proceedings to determine whether such license or permit has been properly revoked or suspended under the law.
- If the license holder or permit holder timely requests such a hearing, a public hearing shall be held within fifteen (15) days of the Clerk's receipt of such request before the City Commission at which time the license holder or permit holder may present evidence as to why the suspension or revocation is improper or contrary to the provisions of this Article. The City Commission shall hear evidence concerning the basis for such suspension or revocation and shall affirm or reverse the suspension or revocation at the conclusion of said hearing; any such hearing shall be concluded no later than twenty-eight (28) days after the license holder's or permit holder's receipt of notification of the suspension or revocation, unless an extension beyond such time period is requested by the license holder or permit holder and granted by the City Commission.
- (c) If the City Commission affirms the suspension or revocation, the Office of the City Attorney shall institute suit for declaratory judgment in a court of record in Hamilton County, Tennessee, within ten (10) days of the date of any such affirmation seeking an immediate judicial determination of whether such license or permit has been properly revoked or suspended under the law.
- (d) Any operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation of the license.

#### SECTION 14-713 - Hours of operation.

- (a) No adult-oriented establishment shall be open between the hours of 3:00 a.m. and 8:00 a.m. on weekdays or between the hours of 3:00 a.m. and 12:00 noon on Sundays.

- (b) All adult-oriented establishments shall be open to inspection at all reasonable times by the Red Bank Police Department or such other persons as the City Manager and/or the Hamilton County Health Department may designate.

SECTION 14-714 - Responsibilities of the operator.

- (a) The operator/licensee shall maintain a register of all employees, showing the name, and aliases used by the employee, home address, age, birthdate, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the City Commission. The above information on each employee shall be maintained in a physical/paper and in an electronic register kept on the premises for a period of three (3) years following termination.
- (b) The operator shall make the register of employees available immediately for inspection by upon demand of the City Manager or designee and/or a member of the Red Bank Police Department and/or Hamilton County Health Department at all reasonable times.
- (c) Every act or omission by an employee constituting a violation of the provisions of this article shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
- (d) An operator shall be responsible for the conduct of all employees while on the licensed premises and any act or omission of any employee constituting a violation of the provisions of this article shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.
- (e) There shall be posted and conspicuously displayed in the common areas of each adult-oriented establishment a list of any and all entertainment provided on the premises. Such list shall further indicate the specific fee or charge in dollar amounts for each entertainment listed. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the City Manager or designee and/or Red Bank Police Department at all reasonable times.
- (f) No employee of an adult-oriented establishment shall allow any minor to enter or loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined herein.
- (g) Every adult-oriented establishment shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install booths, cubicles, rooms or stalls within adult-oriented establishments for whatever purpose, but especially for the purpose of secluded viewing of adult-oriented motion pictures or other types of adult entertainment.

- (h) The operator shall be responsible for and shall provide that any room or area used for the purpose of viewing adult-oriented motion pictures or other types of live adult entertainment shall be readily accessible at all times and shall be continuously opened to view in its entirety.
- (i) No operator, entertainer, or employee of an adult-oriented establishment shall demand or collect all or any portion of a fee for entertainment before its completion.
- (j) A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:

*This Adult-Oriented Establishment is Regulated by Red Bank City Code. Entertainers Are:*

- 1. *Not permitted to engage in any type of sexual conduct;*
- 2. *Not permitted to expose their sex organs;*
- 3. *Not permitted to demand or collect all or any portion of a fee for entertainment before its completion.*

#### SECTION 14-715 - Prohibitions and unlawful sexual acts.

- (a) No operator, entertainer, or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers or any persons to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia with any other person or any beast or animal.
- (b) No operator, entertainer, or employee shall encourage or permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus or genitals of any other person.
- (c) No operator, entertainer, employee, person, or customer shall be unclothed or in such attire, costume, or clothing so as to expose to view any portion of the sex organs, breasts or buttocks of said operator, entertainer, or employee with the intent to arouse or gratify the sexual desires of the operator, entertainer, employee, customer or person.
- (d) No entertainer, employee or customer shall be permitted to have any physical contact with any other on the premises during any performance and all performances shall only occur upon a stage at least eighteen (18) inches above the immediate floor level and removed at least six (6) feet from the nearest entertainer, employee and/or customer.

#### SECTION 14-716 - Penalties and prosecution.

- (a) Any person, partnership, or corporation who is found to have violated this article shall be fined a definite sum not exceeding fifty dollars (\$50.00) and shall result in the suspension or revocation of any permit or license.
- (b) Each violation of this article shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation.



- (c) Any violation of State Law may be separately charged and prosecuted as such, shall be subject to application penalties, including imprisonment and shall not be subject to the “\$50 fine” limitations.

#### SECTION 14-717 - Invalidity of part.

Should any court of competent jurisdiction declare any section, clause, or provision of this article to be unconstitutional, such decision shall affect only such section, clause, or provision so declared unconstitutional, and shall not affect any other section, clause or provision of this article.

#### SECTION 14-718 - Denial of applications or renewals.

- (a) As used in this section, "application" shall mean (i) an application for a license, (ii) an application for a permit, (iii) an application for a license renewal, and (iv) an application for a permit renewal.
- (b) Whenever an application is denied, the City Manager shall notify the applicant in writing of the reasons for such action; such notice shall also advise the applicant of the applicant's right to request a hearing before the City Commission. If the applicant desires to request a hearing before the City Commission to contest the denial of an application, such request shall be made in writing to the City Manager within ten (10) days of the applicant's receipt of the notification of the denial of the application. If the applicant timely requests such a hearing, a public hearing shall be held within fifteen (15) days of the City Manager's receipt of such request before the City Commission at which time the applicant may present evidence as to why the application should not be denied. The City Commission shall hear evidence concerning the basis for denial of the application and shall affirm or reverse the denial of an application at the conclusion of said hearing; any such hearing shall be concluded no later than twenty-eight (28) days after the applicant's receipt of notification of denial of an application, unless an extension beyond such time period is requested by the applicant and granted by the City Manager.
- (c) If the City Commission affirms the denial of an application, the Office of the City Attorney shall institute suit for declaratory judgment in a court of record in Hamilton County, Tennessee, within ten (10) days of the date of any such denial seeking an immediate judicial determination of whether such application has been properly denied under the law.

#### SECTION 14-719 – Location, Distancing, and Special Use Permits.

- (a) No two Adult Oriented Establishments, may be located within five hundred feet (500) of any other Adult Oriented Establishment, measured in a straight surveyed line from the nearest property line. In the event of rejection by the City of a license application for reason of this “distance requirement”, the obligation to prove, by registered land surveyor, location eligibility for the later to apply applicant/prospective licensee/operator shall be upon such applicant.

- (b) There shall be no more than four (4) Adult Oriented Establishments located in any zone where the same is a permitted use, within the City of Red Bank.
- (c)(1) No Adult Oriented Establishment shall be located within two hundred feet (200) of any church, or other place of organized worship, any school, day care facility, public or private playground, ballfield, public swimming pool or parks or any other recreational facilities or place or location where children or groups of children are likely to congregate to participate in organized or casual sports and or recreational activities.
- (c)(2) No Adult Oriented Establishment shall be located within two hundred feet (200) of any establishment which is licensed to sell or serve beer, wine or alcoholic beverages.
- (d) All permitted activities, including but not limited to sales or display of merchandise, shall necessarily and at all times take place indoor/inside the building premises, and in no event shall any such occur or take place “outside”, in the open air or under or adjacent to or in any tent, awning or temporary structure or covering.
- (e) In the event any otherwise qualifying or eligible location shall abut or be located within one hundred feet (100) (measured in a straight surveyed line from the nearest property line) of any residential zoned property in the City of Red Bank, then the issuance of a license for operation of an adult oriented business on such property shall be subject to the issuance of a Special Exception Permit, upon application by the Applicant to the Red Bank Planning Commission and the Red Bank City Commission and as to which the City may require additional conditions to address the health, safety and welfare of the citizens, including but not limited to additional screening and or landscaping requirements, parking regulations, noise muffling, exterior lighting, and other requirements and conditions as may be reasonably necessary under the circumstances there existing.
- (f) Nothing contained in this Section 14-719 shall be interpreted or construed to repeal, suspend or otherwise modify any other provisions of the Red Bank City Code and all other provisions shall continue in full force and affect including specifically, but not by way of limitation all design review requirements, landscaping, sight screening, lighting, signage provisions and requirements, noise, traffic, parking and other ordinances and regulations.

**BE IT FURTHER ORDAINED**, that every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

**FINALLY, BE IT ORDAINED** that this ordinance shall take effect from and after the date of its final passage, the health, safety and public welfare of the Citizens of the City of Red Bank requiring it.

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MAYOR

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CITY RECORDER

**June 16, 2020**

PASSED ON FIRST READING

**July 7, 2020**

PASSED ON SECOND AND FINAL READING

APPROVED AS TO FORM:

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CITY ATTORNEY

# ORDINANCE NO. 20-1173

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE TO AMEND THE ZONING ORDINANCE NO. 15-1020 CODIFIED AT TITLE 14 OF THE RED BANK CITY CODE CHAPTER IV, SECTION 14-402, 14-501 AND 14-502 AS RELATES TO “PERMITTED USES” IN THE ZONES THEREIN SPECIFIED**

**WHEREAS**, the City Commission and the City Planning Commission have recently undertaken a study and revision of the City’s Zoning Ordinance with respect to the topic of “Adult Oriented Establishments”; and

**WHEREAS**, the heretofore existing regulations of and with respect to that topic have not been updated or studied in several years; and

**WHEREAS**, intervening developments, court cases, professional studies and regulatory provisions existing in the surrounding City of Chattanooga recommend an update and revision of Red Bank’s Ordinances of and with respect to that same topic; and

**WHEREAS**, the City has been and is in the process of revising Title 14, Chapter VII, Sections 14-701 et seq. of the Red Bank City Code of and with respect to the topic of Adult Oriented Establishments.

**NOW THEREFORE**, in order to protect the health, safety, welfare and morals of the citizens of the City of Red Bank and to better align the City's regulatory provisions of and with respect to the above referenced topic and findings to those of the geographically surrounding City of Chattanooga, be it **ORDAINED** by the City Commission of the City of Red Bank, Tennessee as follows:

## SECTION I:

1. That the Zoning Ordinance of the City of Red Bank, Tennessee, codified at Title 14, Chapter IV, Section 14-402 of the Red Bank City Code, C-1 Commercial Zone, at Subsection 402.03 thereof be and the same is hereby Amended to add a new permitted use to wit:  
  
(M) Adult Oriented Establishments
2. That the Zoning Ordinance of the City of Red Bank, Tennessee codified at Title 14, Chapter V, Section 14-501.01 of the Red Bank City Code, with respect to the L-1 Light Manufacturing Zone be Amended to delete and remove Subsection (S) thereof “Adult Oriented Establishments”, from the list of permitted uses and to designate Subsection (S) thereof as “RESERVED”.

3. That the Zoning Ordinance of the City of Red Bank, Tennessee codified at Title 14, Chapter V, Section 14-502.01 of the Red Bank City Code, with respect to the M-1 Manufacturing Zone be Amended to delete and remove Subsection (B)(16) thereof “Adult Oriented Establishments”, from the list of permitted uses and to designate Subsection (B)(16) thereof as “RESERVED”.

**BE IT FURTHER ORDAINED**, that every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

**FINALLY, BE IT ORDAINED** that this ordinance shall take effect from and after the date of its final passage, the health, safety and public welfare of the Citizens of the City of Red Bank requires it.

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MAYOR

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CITY RECORDER

**June 16, 2020**

PASSED ON FIRST READING

**July 7, 2020**

PASSED ON SECOND AND FINAL READING

APPROVED AS TO FORM:

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CITY ATTORNEY

**ORDINANCE NO. 20-1174**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE,  
AMENDING THE ZONING MAP TO REZONE PROPERTY LOCATED AT  
5005 DAYTON BOULEVARD, HAMILTON COUNTY TAX MAP PARCEL NUMBER  
0990 B 001.01, FROM R-1A RESIDENTIAL ZONE TO R-3 RESIDENTIAL,  
SUBJECT TO CONDITIONS**

**WHEREAS,** *Tennessee Code Annotated* (TCA) § 13-7-201 allows municipal governments the authority to regulate land use through zoning of its jurisdictional territory; and

**WHEREAS,** the Red Bank Municipal Planning Commission has certified zoning districts as provided for in TCA § 13-7-202; and

**WHEREAS,** TCA §13-7-204 authorizes amendments to the municipal zoning map and provides for that process; and

**WHEREAS,** the applicant, Green Tech Homes LLC, acting on behalf of the property owner, Pinnacle Financial Partners, Inc. as successor interest to Pioneer Bank and Capital Mark Bank & Trust, has requested that the property at 5005 Dayton Boulevard be rezoned from R-1A to R-3; and

**WHEREAS,** the legal descriptions for said property is included with Deed Book 5158 Page 510 in Exhibit B; and

**WHEREAS,** the Red Bank Planning Commission provided an opportunity to submit comments in favor of or against the proposed rezoning at an advertised public hearing held in conjunction with its meeting on June 9, 2020; and

**WHEREAS,** the Red Bank Planning Commission recommended approval of the rezoning request subject to certain conditions; and

**WHEREAS,** the City Commission provided an opportunity to submit comments in favor of or against the proposed rezoning at an advertised public hearing on July 7, 2020 during its regularly scheduled Commission Meeting; and

**WHEREAS,** the City Commission finds that the proposed development afforded by the rezoning request would not have a negative impact on adjacent properties.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RED BANK, TENNESSEE,  
AS FOLLOWS:**

**SECTION 1.** The Zoning Ordinances and Zoning Maps of this City are hereby amended by rezoning the property located at 5005 Dayton Boulevard, as more particularly described per Exhibit B and as graphically illustrated per Exhibit A and identified as Hamilton County Tax Map Parcel number 0990 B 001.01, from R-1A Residential Zone to R-3 Residential Zone subject to the following conditions:

- (a) Owner and applicant shall use the property only for a Planned Unit Development.
- (b) Only single-family homes and townhomes are to be constructed.

- (c) No other R-3 Residential Zone uses are permitted.
- (d) The density of housing units is not to exceed 5 units per acre.

SECTION 2. Upon the adoption of this Ordinance, the Zoning maps of the City shall be amended and changed to reflect this rezoning with the limited condition noted.

SECTION 3. Every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not affect or impair any other section, sentence, clause, or phrase.

SECTION 4. This ordinance shall take effect from and after the date of its final passage, the public welfare of the City of Red Bank, Tennessee requiring it.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY RECORDER

**July 7, 2020**

PASSED ON FIRST READING

**July 21, 2020**

PASSED ON SECOND READING

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

ACCEPTED, ACKNOWLEDGED AND  
AGREED AS TO THE LIMITING FACTORS,  
CONDITIONS AND REQUIREMENTS HEREOF

Owner: Pinnacle Financial Partners, Inc.

BY: \_\_\_\_\_  
Signature Title Date

Applicant: Green Tech Homes, LLC

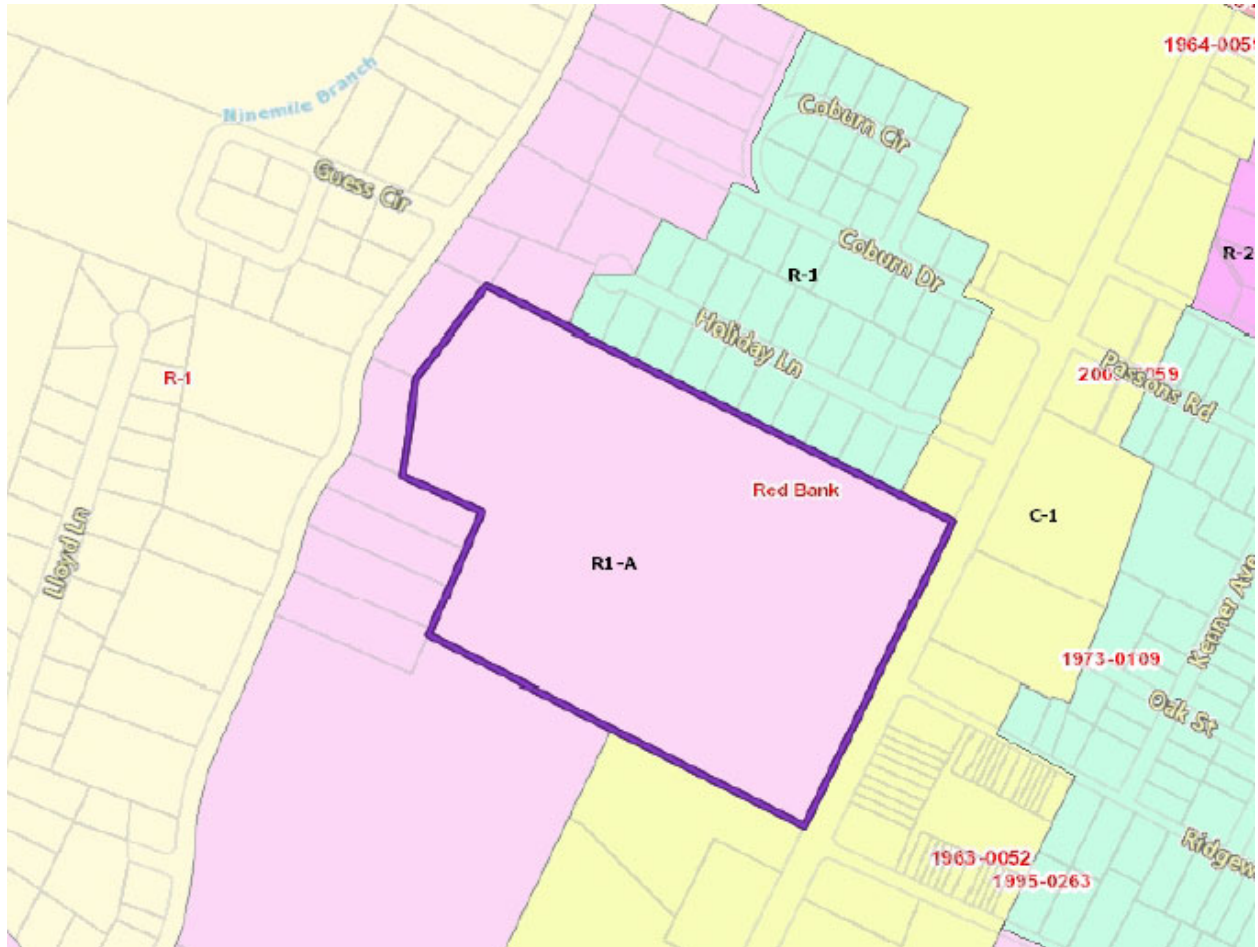
BY: \_\_\_\_\_  
Signature Title Date

**Exhibit A. Map**

**ORDINANCE NO. 20-1174**

**0990 B 001.01**

**5005 Dayton Boulevard**





**Exhibit B. Legal Description from Deed Book 5158 Page 510**  
**ORDINANCE NO. 20-1174**

ADDRESS OF NEW OWNER(S): Pioneer Bank, Trustee John F. Paalzow Trust (Name)	SEND TAX BILLS TO: Same (Name)	MAP PARCEL NO. 0990 B-001.01
801 Broad Street (Street Address)	(Street Address)	
Chattanooga, TN 37402 (City) (State) (zip)	(City) (State) (zip)	

**QUITCLAIM DEED**

FOR AND IN CONSIDERATION of the sum of One Dollar (\$1.00) and other good and valuable consideration not herein mentioned, the receipt and sufficiency of which are hereby acknowledged, I, JOHN F. PAALZOW, JR., do hereby grant, bargain, transfer, convey and forever quitclaim unto PIONEER BANK, Chattanooga, Tennessee, TRUSTEE under the Revocable Trust Agreement of JOHN F. PAALZOW, JR., dated October 8, 1997, its successors and assigns, all of my right, title and interest in and to the following described tract or parcel of land:

IN THE THIRD CIVIL DISTRICT OF HAMILTON COUNTY, TENNESSEE: Bounded on the East by the West line of Dayton Boulevard (U.S. Highway No. 27, formerly known as Dry Valley Road, and prior to that known as Washington Road), on the North by the 5-foot strip of ground conveyed by John H. Gadd and wife to A. Peterson by a Deed dated about the 16th day of December, 1913, and registered March 2, 1914 in Book V, Vol. 12, page 321, of the Register's Office of Hamilton County, Tennessee; on the West by the old Russell Brown Tract; and on the South by what has been heretofore known as the George Plumlee tract, later owned by Samuel Hixon and sold to Tular, and later conveyed unto John F. Paalzow and Mary L. Paalzow, his wife, by a Deed recorded in Book 694, page 365, in the Register's Office of Hamilton County, Tennessee, containing 30 acres, more or less. SUBJECT to Governmental zoning and subdivision ordinances or regulations in effect thereon.

GRANTORS' SOURCE OF EQUITABLE TITLE is Deed recorded in Book 2477, page 416, Register's Office, Hamilton County, Tennessee.

No survey made. Legal description is identical to that of record in Book 2477, page 416, Register's Office, Hamilton County, Tennessee.

IN WITNESS WHEREOF, I have hereunto set my hand, this 11th day of August, 1998.

  
John F. Paalzow, Jr.

*for*

This instrument prepared by:  
CHAMBLISS, BANNER & STOPHEL, P.C.  
1000 Tallan Building, Two Union Square  
Chattanooga, Tennessee 37402-2502

171636/v.1

Instrument: 1998081200205  
Book and Page: 61 5158 510  
Deed Recording Fee \$8.00  
Data Processing Fee \$2.00  
Probate Fee \$1.00 XMPT  
Total Fees: \$10.00  
User: STAYLOR  
Date: 12-AUG-1998  
Time: 03:13:07 P  
Contact: Pam Hurst, Register  
Hamilton County Tennessee

Book and Page: 61 5158 511

STATE OF TENNESSEE :  
:  
COUNTY OF HAMILTON :

Before me, a Notary Public of the state and county aforesaid, personally appeared JOHN F. PAALZOW, JR., to me known (or proved to me on the basis of satisfactory evidence) to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

WITNESS my hand and seal, at office in Chattanooga, Hamilton County, Tennessee, this 11th day of August, 1998.

*Janet H. Langan*  
Notary Public

My Commission Expires My Commission Expires April 21, 2002

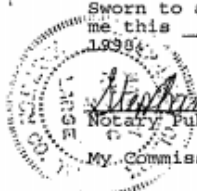
STATE OF TENNESSEE :  
:  
COUNTY OF HAMILTON :

I hereby swear or affirm that the actual consideration for this transfer is \$ -0-.

PIONEER BANK, Chattanooga,  
Tennessee

By *Ralph West EVR/HO*  
Ralph West, Ex. Vice President  
and Trust Officer

Sworn to and subscribed before  
me this 12 day of August,  
1998.



*Stephanie Clark*  
Notary Public

MY COMMISSION EXPIRES FEBRUARY 5, 2000

My Commission expires: \_\_\_\_\_

## **ORDINANCE NUMBER 20-1175**

### **AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, AMENDING ORDINANCE NO. 02-853, SECTION 5(C), THE STORM WATER UTILITY SERVICE CHARGE**

**WHEREAS**, pursuant to Phase II Regulations of the Water Pollution Control Act of 1973, and by the State of Tennessee the City of Red Bank instituted a storm water management system for the protection and preservation of the public health, safety, and welfare of the community; and

**WHEREAS**, the City of Red Bank approved Ordinance No. 02-853 on June 18, 2002 establishing a storm water utility fee of \$36.00 per Equivalent Residential Unit (ERU); and

**WHEREAS**, this storm water fee has remained the same for the past eighteen (18) years, even though costs of continuing the mandated storm water program has increased steadily over the past eighteen (18) years; and

**WHEREAS**, after careful study and review of the ever increasing cost of services and funding requirements, the City of Red Bank feels that it is necessary to increase the storm water utility fee; and

**WHEREAS**, City Administration has advised that an increase of four dollars (\$4.00) per year per ERU is the minimum increase necessary to allow the Storm Water Utility function to continue to operate without overburdening the General Fund for support of the Storm Water Utility.

**NOW, THEREFORE, IN ORDER TO MEET THE REQUIREMENTS OF THE FEDERALLY MANDATED OBJECTIVES OF ORDINANCE NO. 02-853 AND REGULATIONS AND REQUIREMENTS IMPOSED BY THE STATE OF TENNESSEE, BE IT ORDAINED BY THE CITY OF RED BANK, TENNESSEE, AS FOLLOWS:**

SECTION 1. Ordinance No. 02-853, SECTION 5 (c) be deleted in its entirety and the following be inserted in its place and stead:

(c) Storm water utility service rate per equivalent residential unit (ERU) or increment thereof. The storm water service charge per equivalent residential unit shall be \$40.00 per year per ERU.

SECTION 2. The storm water service charge shall accrue beginning July 1, 2020, and shall be billed periodically thereafter, beginning with the 2020 Property Tax billing cycle.

SECTION 3. All other sections, rules, regulations and requirement of Ordinance No. 02-853 remain in effect.

SECTION 4. Every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid

by a court of competent jurisdiction, said unconstitutionality or invalidity shall not affect or impair any other section, sentence, clause, or phrase.

SECTION 5. This ordinance shall take effect from and after the date of its final passage, the public welfare of the City of Red Bank, Tennessee requiring it.

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MAYOR OF RED BANK

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CITY RECORDER

**July 7, 2020**

PASSED ON FIRST READING

**July 21, 2020**

PASSED ON SECOND READING

APPROVED AS TO FORM:

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CITY ATTORNEY

## ORDINANCE NO. 20-1176

### AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO AMEND THE FY 2021 OPERATING BUDGET, BEGINNING JULY 1, 2020 AND ENDING JUNE 30, 2021 IN ORDER TO APPROPRIATE CARRY-OVER ENCUMBRANCES AND GRANT FUNDING

**WHEREAS**, the City of Red Bank approved Ordinance No. 20-1170, the Fiscal Year 2021 appropriations ordinance, on June 16, 2020 ; and

**WHEREAS**, the City of Red Bank has various carry-over encumbrances for projects that were not completed in Fiscal Year 2020; and

**WHEREAS**, the City of Red Bank has received funding from the Governor's Local Government Support Grant that needs to be appropriated into the FY 2021 Operating Budget; and

**WHEREAS**, the City of Red Bank had several other revenue sources to offset these encumbrances, including grant and donation funding from various sources in the previous fiscal year; and

**WHEREAS**, at the end of Fiscal Year 2020, there were unspent funds remaining from the various revenue sources, which needs to be appropriated into the new Fiscal Year 2021 Operating Budget in order to continue the various projects.

**NOW, THEREFORE, BE IT ORDAINED**, by the Commission of the City of Red Bank, Tennessee as follows:

SECTION 1: that the Fiscal Year 2021 Operating Budget be and is hereby amended as provided:

#### **GENERAL FUND** **REVENUES**

Grant Revenue	\$314,229.14
Fund Balance	\$331,464.29

<b>TOTAL REVENUES</b>	<b><u>\$ 645,693.43</u></b>
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#### **EXPENDITURES**

Public Works - ADA Upgrades	
<i>Government Buildings</i>	\$63,784.00
<i>Community Center</i>	\$25,725.00
<i>Morrison Springs Facility</i>	\$4,000.00
<i>Norma Cagle Field</i>	\$2,500.00
<i>Kids Corner Park</i>	\$3,500.00
<i>Swimming Pool</i>	\$2,000.00
<i>White Oak Park</i>	\$3,000.00

Public Works	
<i>Machinery and Equipment – ATV</i>	\$12,241.39
<i>Roadway Paving</i>	\$214,713.90
<i>Roadway Paving – Governor's Grant</i>	\$289,636.00

Police Department	
<i>THSO Distracted Driver Grant</i>	\$17,302.25
<i>HIDTA Grant</i>	\$7,290.89

<b>TOTAL EXPENDITURES</b>	<b><u>\$ 645,693.43</u></b>
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**STATE STREET AID**  
**REVENUES**

Grant Revenue	\$1,801,575.63
Fund Balance	\$950,394.00
<b>TOTAL REVENUES</b>	<b><u>\$ 2,751,969.63</u></b>

**EXPENDITURES**

<i>TIP Paving PIN 121881</i>	\$1,461,300.03
<i>TIP Signalization PIN 121880</i>	\$555,410.53
<i>TIP Sidewalks PIN 116152</i>	\$235,259.07
<i>Roadway Paving</i>	\$500,000.00
<b>TOTAL EXPENDITURES</b>	<b><u>\$ 2,751,969.63</u></b>

SECTION 2. This Ordinance shall take effect upon the date of its passage upon second and final reading, the welfare of the citizens of the City of Red Bank requiring it.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Recorder

\_\_\_\_\_  
August 18, 2020

\_\_\_\_\_  
Passed on First Reading

\_\_\_\_\_  
September 1, 2020

\_\_\_\_\_  
Passed on Second and Final Reading

Approved as to Form:

\_\_\_\_\_  
City Attorney

**ORDINANCE NO. 20-1177**

**AN ORDINANCE BY THE CITY OF RED BANK, TENNESSEE, TO ACCEPT AMEND THE 2021 TENNESSEE HIGHWAY SAFETY OFFICE “DISTRACTED DRIVING REDUCTION PROGRAM” GRANT AND TO AMEND THE FISCAL YEAR 2021 OPERATING BUDGET TO APPROPRIATE GRANT FUNDING’ TOTALING \$40,000.00 FOR THE POLICE DEPARTMENT**

**WHEREAS**, the City of Red Bank Police Department has been awarded a grant for “Distracted Driving Reduction” by the State of Tennessee, Tennessee Highway Safety Office in the amount of \$40,000.00; and

**WHEREAS**, this is a 100% grant and requires no local agency match; and

**WHEREAS**, it is necessary for the City of Red Bank to accept grant funding and amend the Fiscal Year 2021 Operating Budget to appropriate these funds totaling \$40,000.00 for use by the Police Department, and

**WHEREAS**, the City Manager is authorized to sign and execute the Grant Contract upon approval by the City Attorney.

**NOW, THEREFORE, BE IT ORDAINED**, by the City Commission of the City of Red Bank, Tennessee as follows:

SECTION 1: That the THSO “Distracted Driving Enforcement Grant” be and is hereby accepted;

SECTION 2: That the City Manager is authorized to sign and execute the Grant Contract on behalf of the City of Red Bank Police Department, upon approval by the City Attorney;

SECTION 3: That the Fiscal Year 2021 Operating Budget be and is hereby amended as provided:

**REVENUES**

**GENERAL FUND**

Grant Revenue	<u>\$40,000.00</u>
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<b>TOTAL REVENUES</b>	<b><u>\$40,000.00</u></b>
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**EXPENDITURES**

Police	
<i>Salaries &amp; Benefits</i>	\$39,542.98
<i>Travel</i>	<u>\$457.02</u>

<b>TOTAL EXPENDITURES</b>	<b><u>\$40,000.00</u></b>
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SECTION 4. This Ordinance shall take effect upon the date of its passage upon second and final reading, the welfare of the citizens of the City of Red Bank requiring it.

\_\_\_\_\_  
Mayor Ruth Jeno

ATTEST:

\_\_\_\_\_  
City Recorder

**September 15, 2020**

\_\_\_\_\_  
Passed on First Reading

**October 6, 2020**

\_\_\_\_\_  
Passed on Second and Final Reading

Approved as to Form:

\_\_\_\_\_  
City Attorney



## **ORDINANCE NO. 20-1178**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO REPEAL ORDINANCE NO. 19-1161, A MORATORIUM UPON AND FOR A STATED PERIOD OF TIME TO SUSPEND THE OPERATION AND ENFORCEMENT OF RED BANK CITY CODE SECTION 9-845(3)(c) WITH RESPECT TO REMOVAL OF “POLE SIGNS” IN CERTAIN CIRCUMSTANCES AND TO REINSTATE THESE REQUIREMENTS OF THE SIGN ORDINANCE**

**WHEREAS**, the City Commission for the City of Red Bank has previously enacted the Red Bank Sign Ordinance, codified at Title 9, Chapter 8, Sections 800 et seq., of the Red Bank City Code, for the purposes of regulating and governing the placement, replacement, repair, maintenance, compatibility, sight line distances, and overall visual attractiveness of advertising signs in commercial and, to a limited extent, residential and other zoned areas in the City of Red Bank, Tennessee; and

**WHEREAS**, the City Commission has determined, generally, that any continued proliferation and existence of Pole Signs as defined in the Red Bank sign Ordinance, effects traffic sightlines, contributes to traffic obscuring distraction and visual clutter of is an undesirable aspect of the existence and or further proliferation of “Pole Signs” within the City of Red Bank; and

**WHEREAS**, the City Commission, has by Ordinance No. 19-1161 placed a moratorium upon enforcement of certain aspects of the Sign Ordinance related to Pole Signs and has upon study, review, personal and corporate observation and based upon input from City Administration and from the Citizenry of the City of Red Bank, determined that the health, safety and welfare of the Citizens of the City of Red Bank would be better served by prohibiting any further proliferation of Pole Signs within the City and also by for the timed amortization and gradual sun setting of currently existing, erected and in place Pole Signs in the City of Red Bank; and

**WHEREAS**, the City Commission for the City of Red Bank declares and further affirms its intent to prohibit further erection of any more or additional Pole Signs in the City of Red Bank and in a timely, fair, and permissible manner to be hereafter determined by Ordinance to phase out the existence of Pole Signs and to lift and dissolve the moratorium put in place by Ordinance No. 19-1161 suspending the enforcement of Red Bank City Code Section 9-845(3)(c) as currently written.

**NOW THEREFOR BE IT ORDAINED**, by the City Commission of the City of Red Bank, Tennessee, as follows:

SECTION 1. Ordinance No 19-1161, placing a MORATORIUM upon enforcement of the terms, provisions and conditions of the currently existing Red Bank City Code Section 9-845(3)(c), is hereby repealed.

SECTION 2. Every section, clause and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect

or impair any other section, sentence, clause or phrase.

SECTION 3. This Ordinance shall take effect from and after the date of its final passage the health, safety and welfare of the citizens of the City of Red Bank requiring it.

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Mayor

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City Recorder

**October 6, 2020**

Passed on First Reading

**October 20, 2020**

Passed on Second and Final Reading

Approved as to form:

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City Attorney

## **ORDINANCE NO. 20-1179**

### **AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE TO AMEND ORDINANCE NO. 15-1020, THE ZONING ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, CODIFIED AT RED BANK CITY CODE TITLE 14, CHAPTERS 2 AND 4 THEREOF IN ORDER TO PROMULGATE AND CLARIFY CERTAIN RULES AND REGULATIONS GOVERNING BLOOD PLASMA COLLECTION CENTERS**

WHEREAS, the Red Bank Planning Commission and the Red Bank City Commission and its professional planning agency, i.e. the Southeast Tennessee Development District, have reviewed and studied plasma collection centers via literature and upon first hand observations in other cities and; their current and potential impact(s) on the City of Red Bank; and

WHEREAS, the City Commission, the Planning Commission, and as aided by the Southeast Tennessee Development District, wishes to promote economic revitalization through diversification of land uses in certain areas and by the reasonable and orderly regulation of land use in general and of plasma collection centers in particular; and

WHEREAS, the Red Bank Planning Commission held a public hearing with respect to the topic of this Ordinance at its regularly scheduled and advertised meeting on November 19, 2020 at which time public comments were solicited and allowed; and

WHEREAS, a public hearing was held by the Red Bank City Commission at its regularly scheduled and advertised meeting on the 5th day of January, 2021, at which time the provisions of this Ordinance were considered and public comments permitted and allowed; and

WHEREAS, it is the determination of the Red Bank Planning Commission and of the Red Bank City Commission that “Plasma Collection Centers” should be subject to distance separation requirements and limited in size in allowed zones, and that the same should be prohibited in certain other zones.

NOW THEREFORE, BE IT ORDAINED by the City Commission of the City of Red Bank, Tennessee, as follows:

SECTION 1. That Title 14 of the Red Bank City Code, Section 14-202, Definitions, shall be amended by adding an additional subsection defining “plasma collection center” as follows:

Plasma Collection Center: Any business or operation that has its primary function the collection and/or distribution and whether or not conducted for profit, as a charitable enterprise or as a public service of human blood plasma. The building premises of any such Plasma Collection Centers shall not exceed 5,000 square feet of heated and air conditioned building space.

SECTION 2. That Title 14 of the Red Bank City Code, Section 14-202, Definitions, shall be

amended, at Subsection (202.12) as follows:

Any business premises or operation, under the authority or supervision of a medical doctor duly licensed by the State of Tennessee where medical services are performed for outpatients only. Clinic: Medical services for outpatients only. (202.12) Clinics may include whole blood donation centers where donors do not receive monetary compensation, "donations" or other monetary recompense or gratuities for their time, and blood or blood products or other donations. Clinics do not include Plasma Collection Centers.

SECTION 3. That Title 14 of the Red Bank City Code, Section 14-306.01 R-4 Special Zone, under the category of Permitted Uses, subsection (H) shall be amended to include the following as underlined:

(H) Professional, medical or dental office, and clinics, but expressly excluding Plasma Collection Centers, which are only permitted by Special Exceptions Permit in the R-4 Special Zone.

SECTION 4. That Title 14 of the Red Bank City Code, Section 14-306.01 R-4 Special Zone, under the category of Permitted Uses shall be amended to include additional subsection:

(DD) Plasma Collection Centers subject to a Special Exceptions Permit, and which shall also be required to meet the following conditions:

- (1) The gross square footage of heated and cooled building space shall be no larger than 5,000 square feet.
- (2) The property must have frontage along Morrison Springs Road and be located west of US Highway 27
- (4) The property shall not be located within 1,000 feet of nearest blood collection center
- (5) A Planted Type C buffer must be installed between the structure and any abutting residential properties

SECTION 5. That Title 14 of the Red Bank City Code, Section 14-401.01 (O-1 Office Zone), under the category of Permitted Uses, subsection (E) shall be amended to include the following as underlined:

(E) Professional, medical or dental office, and clinics, excluding plasma collection centers, which are not permitted.

SECTION 6. That Title 14 of the Red Bank City Code, Section 14-402.03 (C-1 Commercial Zone), under the category of Uses Requiring a Special Exceptions Permit, subsection (Q) shall be amended to include the following as underlined:

(Q) Professional, medical or dental office, and clinics, excluding plasma collection centers, which are not permitted.

SECTION 7. That Title 14 of the Red Bank City Code, Section 14-403.02 (C-2 Commercial Zone), subsection (Q) shall be amended to include the following as underlined:

(Q) Professional, medical or dental office, and clinics, excluding plasma collection centers, which are not permitted.

SECTION 8. That Title 14 of the Red Bank City Code, Section 14-405.06 (C-3 Neighborhood Commercial), under the category of Prohibited Uses, shall be amended to include additional subsection (X) “Plasma Collection Centers.”

SECTION 9. Every section, sentence, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not affect or impair any other section, sentence, clause, or phrase.

SECTION 10. This Ordinance shall take effect upon the date of its passage upon second and final reading, the welfare of the citizens of the City of Red Bank requiring it.

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MAYOR

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CITY RECORDER

**December 15, 2020**

PASSED ON FIRST READING

**January 5, 2021**

PASSED ON SECOND AND FINAL READING

APPROVED AS TO FORM:

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## **ORDINANCE NO. 21-1180**

### **AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, AMENDING THE ZONING ORDINANCE AND MAPS OF THIS CITY TO REZONE PROPERTY LOCATED AT 3348 EASTON AVENUE FROM R-1 RESIDENTIAL TO R-2 RESIDENTIAL PURSUANT TO CERTAIN RESTRICTIONS**

**WHEREAS**, Whitetail Real Estate Investments LLC has petitioned the Red Bank Planning Commission and the Red Bank City Commission to rezone the property located at 3348 Easton Avenue, Hamilton County Tax Map 118H Group F Parcel No. 027, from R-1 Residential to R-2 Residential; and

**WHEREAS**, the Southeast Tennessee Development District planning staff recommended conditionally approving the request because the additional permitted land uses of the R-2 Residential zone would not have a negative impact on adjacent land uses; and

**WHEREAS**, the Red Bank Planning Commission held an advertised public hearing on this matter on October 15<sup>th</sup>, 2020; and

**WHEREAS**, the Red Bank Planning Commission heard and considered all statements favoring or opposing the requested rezoning including that of the Southeast Tennessee Development District planning staff; and

**WHEREAS**, the Red Bank Planning Commission as of October 15<sup>th</sup>, 2020 has studied the petition in relation to existing zoning and land use and potential patterns of development and finds, provided the property is not to be utilized for attached townhouses, it would not have a negative impact on adjacent land uses, and the Red Bank Planning Commission has recommended conditionally approving the request to rezone the property to R-2 Residential, subject to the conditions that the owner shall provide a vehicular turnaround and that the premises not be utilized for attached townhomes as otherwise permitted in the R-2 zone;

**WHEREAS**, the City Commission, upon notice, held a public hearing in conjunction with the regularly scheduled Commission Meeting on January 5<sup>th</sup>, 2021; and

**WHEREAS**, comments in favor of and comments opposing the proposed rezoning were heard and considered; and

**WHEREAS**, the City Commission, having studied the recommendations of the Southeast Tennessee Development District planning staff and of the Red Bank Planning Commission, finds that requested use, subject to the conditions recommended by the Red Bank Planning Commission, would not have a negative impact on adjacent land uses, is a reasonable extension of existing zones and land uses in the area; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RED BANK, TENNESSEE, AS FOLLOWS:**

SECTION 1. The Zoning Ordinances and Zoning Maps of this City are hereby amended to conditionally rezone from R-1 Residential to R-2 Residential, the premises located at 3348 Easton Avenue, Tax Map Parcel No. 118H F 027, subject to the following conditions: (a) a vehicular turnaround of sufficient size to accommodate passenger vehicles be required to be constructed for each unit so that vehicles may enter Easton Avenue without backing into the

right-of-way; and (b) no attached townhomes/town houses as may otherwise be permitted in the R-2 zone, shall be permitted.

SECTION 2. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 3. The zoning maps of this city shall be amended so as to conditionally reflect R-2, but subject to the condition that a vehicular turnaround area be provided on the property, for the property described herein above and that said maps make specific reference to this Ordinance, with the restriction noted on the zoning map.

SECTION 4. If the Owner does not accept the limiting conditions and restrictions within sixty (60) days next following approval on second and final reading, the Ordinance shall automatically become null and void, and the zoning shall ipso facto revert to R-1 Residential.

SECTION 5. Every section, sentence, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY RECORDER

**January 5, 2021**

PASSED ON FIRST READING

**January 19, 2021**

PASSED ON SECOND READING AND FINAL READING

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

ACCEPTED, ACKNOWLEDGED AND  
AGREED AS TO THE LIMITING FACTORS,  
CONDITIONS AND REQUIREMENTS HEREOF

BY: \_\_\_\_\_  
Owner

## **EXHIBIT A Ordinance No. 21-1180: PARCEL MAP**



Beginning at a point in the Southwest line of Lupton Drive at the most Eastern corner of Lot 18, Lupton Hills, Revised Plat, as shown by plat of record in Plat Book 20, Page 87, in the Register's Office of Hamilton County, Tennessee; thence South 29 degrees 19 minutes West 152 feet along the Southeasterly line of said Lot 18 to a point; thence South 72 degrees 08 minutes East 81.62 feet to a point; thence North 29 degrees 19 minutes East 141.45 feet to a point in the Southwest line of Lupton Drive; thence Northwest along said Southwest line being a slight curve a chord distance of 81 feet, more or less, to the point of beginning.



ORDINANCE NO. 21-1181

AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO SET OUT A PROCESS AND GUIDELINES FOR ESTABLISHING AND THE FUNCTIONING OF CITIZENS ADVISORY BOARDS AND OR COMMITTEES FOR THE PURPOSE OF ASSISTING THE CITY COMMISSION IN DISCHARGING ITS DUTIES AND OBLICATIONS

WHEREAS, the Commission has, since the incorporation of the City, relied upon and sought the involvement of civic minded residents to assist with varied and multiple projects, areas of concern and various tasks; and

WHEREAS, the process for selection of advisory boards and committees has not heretofore been codified or formally memorialized, relying rather on the ad hoc establishment of such boards or committees from time to time; and

WHEREAS, the City has a continuing and expanding need and appreciation for citizen involvement with its several, multiple, varied and continually changing projects, planning, areas of concern, and particular circumstances that occur or arise from time to time, together with on-going and future public recreation and or other quality of life issues.

NOW, THEREFORE, in order to formalize a process and to establish rules and guidelines for the creation and functions of various Citizens Advisory Boards and Committees, BE IT ORDAINED by the City Commission of the City of Red Bank, Tennessee, as follows:

SECTION 1. This Ordinance shall be known as the Citizens Advisory Board and Committee Establishment Ordinance and shall be codified at Title 2, Chapter 2, Sections 2-201, et. seq. of the Red Bank City Code.

SECTION 2-201. Establishment and purpose. The Commission, by resolution, may establish and or abolish, from time to time such Citizens Advisory Boards and Committees as the Commission shall determine, and may determine and set parameters therefore, as well as assign topics, concerns and/or projects as the Commission may determine is appropriate, needed and/or desirable in order to serve in an advisory capacity to the City Commission and the City Manager as research, advisory and discovery entities to address particular circumstances or topics and/or areas of concern and/or for the expansion of services and/or initiation of projects for the intended benefit and betterment of the City, its citizens and the community.

SECTION 2-202. Organization and membership. Such Boards and Committees, once established by the City Commission, shall address assigned topics or areas of community interest and concern and shall have specific functions and terms of existence, not to exceed three (3) years) or LESS as determined by the City Commission. Committees shall consist of five (5)

members unless a greater number be assigned by the City Commission and determined to be necessary for the project, topic or area of community interest, which in some instances may require a particular skill set or areas of expertise. The majority of the members of any such Board or Committee shall be residents of the City. Persons residing outside the City, who have particular areas of knowledge, expertise and experience may also serve if approved by the City Commission.

SECTION 2-203. Duties and Functions. Boards and Committees shall be charged with information gathering, consolidation of such, together with such other specific tasks as referred by the City Commission and City Manager from time to time, and/or as may be required by Ordinance, Regulation, Agreement or Statute, and the communication of its minutes, recommendations, advice and conclusions to the City Manager and the City Commission, including suggestions and recommendations for improvements or changes to benefit the community.

SECTION 2-204. General. The following requirements will apply to all procedures, appointments and terms of any and all Citizens Advisory Boards/Committees, unless otherwise provided by the Charter or Ordinances of the City of Red Bank, and/or as otherwise limited by state law, to the extent applicable.

SECTION 2-205. Appointment process.

- (a) Appointments to any Citizens Advisory Board or Committee shall be by a majority vote of the Board of Commissioners. Boards/Committee openings shall be noticed on the City's website. Any adult citizen of Red Bank and/or owners and operators of businesses whose principal place of business is located in the City, shall be eligible to apply as a member and/or the Commission may select citizens who have not volunteered upon consent of such person(s).
- (b) Red Bank residents between the ages of fifteen (15) and seventeen (17) may also serve as board members, provided a majority of the members of any such board shall always be adults eighteen (18) years of age or older who reside in the City. Board officers must also be adult residents of Red Bank
- (c) Provided further, should the Board later determine to create a Youth Advisory Board or similar entity, there shall be at least one (1) adult resident of Red Bank who is a member, but a majority of the members may be comprised of Red Bank residents ages fifteen (15) to seventeen (17) years of age.
- (d) Persons residing outside the city limits must be invited by the particular board, committee or by the City Commission. Board/Committee applicants shall submit an application supplied by the City Manager and a resumé listing qualifications and other

reasonable information requested by the City for making informed decisions as to whether to appoint such person(s).

(e) Members will receive term expiration notice letters from the City Manager near the end of their terms. Members who are still eligible and wish to apply for re-appointment shall advise the City Manager by the date required in the letter. All appointments and re-appointments will be determined by a majority vote of the City Commission. In the event that the existence of any particular Board or Committee is extended by the Commission beyond the initial three (3) year term of existence, re-appointment for sitting board/committee members shall not be automatic. Except as otherwise provided herein, at the time of appointment and throughout their term, applicants must remain and shall be bona fide residents of the City. Members will serve without compensation.

SECTION 2-206. Terms of appointment. Appointments shall be for terms of three (3) years commencing on the day of the appointment. An effort shall be made to stagger terms so that not all members shall be replaced at any given time, unless by express vote of the City Commission. Initial appointments for new boards or committees shall be equally divided between two (2) and three (3) year initial terms.

SECTION 2-207. Meetings and officers; open meetings.

(a) The date and time of meetings shall be decided by a majority vote of the members. At the first meeting of each calendar year, boards shall elect a chairman who will set the agenda, call and preside over meetings, provide orientation to new members, and keep all members informed; a vice-chairman to serve in the chairman's absence; and a secretary who shall keep minutes for the board, and shall provide copies of draft and accepted minutes to the City Manager for the public record and for distribution to the City Commission. Should a member resign or be unable to complete his/her term for any reason, the Commission may elect a new member as a new applicant comes available.

(b) All meetings of boards and committees shall be subject to the Open Meetings statutes of the State of Tennessee and, therefore, open to the public, advertised in advance on the City's website and by posting notice of same at City Hall.

SECTION 2-208. Staff support. Boards may, from time to time, be provided with the assistance of staff support and/or limited funding, as needed, and as determined by the City Manager or by the City Commission, upon consultation with the City Manager with respect to availability of personnel, other resources, and budgetary considerations.

SECTION 2-209. Vacancies and removals. In the event that a vacancy shall occur during the term of a member, his or her successor shall be appointed for the unexpired portion of that term by the City Commission. Notwithstanding any "term" or timing considerations,

otherwise set out herein, board/committee members serve at the will and at the pleasure of the Commission. Members may be removed with or without cause and at any time, and with or without notice. Cause may include, but not be limited to, if a member: (1) lacks at any time during the term of office any qualification for the office prescribed by the charter or by law; (2) violates any expressed prohibition of the charter; (3) is convicted of a felony, appeals notwithstanding; (4) fails to stay current and participate in the work of the board/committee; (5) fails to regularly attend meetings of the board/committee; and (6) if required, fails to maintain a bona fide residence within the City for thirty (30) consecutive days.

SECTION 2-210. Sun-set, expiration and discontinuance.

(a) Each such Board or Committee shall have its existence and be for an initial term of three (3) years, from organization and appointment and until the anniversary date of establishment three (3) years next following thereafter. Boards and Committees established in months other than January shall, for the initiated terms thereof, be in existence until January the first of the year next following which is three (3) years after the date year of establishment, whereupon such Board or Committee shall automatically cease to exist.

(b) The City Commission may, by majority vote, extend the term of existence of any such Board or Committee at any time during the terms thereof for up to a period of thirty-six (36) months beyond the date that any such majority vote extension is undertaken, but not longer. Any extension of the terms in office of any Board or Committee members, beyond the original three (3) year terms of such persons, shall also necessarily be by majority vote of the City Commission, and failing which the term(s) of such person(s) shall automatically expire at the end of the three (3) year term of such person(s) under consideration.

(c) Such Boards or Committees exist at the pleasure of the City Commission and any may be abolished, terminated and disbanded at any time, from time to time, with or without cause and with or without notice.

SECTION 3. Every section, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

SECTION 4. This Ordinance shall take effect from and after the date of its final passage the health, safety and welfare of the citizens of the City of Red Bank requiring it.

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Mayor Hollie Berry

(Date)

\_\_\_\_\_  
City Recorder Tracey Perry (Date)

\_\_\_\_ March 16, 2021 \_\_\_\_\_  
Approved on First Reading

\_\_\_\_ April 6, 2021 \_\_\_\_\_  
Approved on Second and Final Reading

Approved as to form:

\_\_\_\_\_  
City Attorney

**ORDINANCE NO. 21-1182**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, AMENDING  
THE ZONING ORDINANCE AND MAPS OF THIS CITY TO REZONE  
PROPERTY LOCATED AT 1010 LULLWATER ROAD FROM R-1  
RESIDENTIAL TO R-T/Z TOWNHOME AND ZERO LOT LINE RESIDENTIAL**

**WHEREAS**, Clara Muray, who owns the property, has petitioned the Red Bank Planning Commission and the Red Bank City Commission to rezone the property located at 1010 Lullwater Road, Hamilton County Tax Map 117K Group C Parcel 13, from R-1 Residential to R-T/Z Townhome and Zero Lot Line Residential; and

**WHEREAS**, the Southeast Tennessee Development District planning staff recommended approving the request because the additional permitted land uses of the R-T/Z zone would not have a negative impact on adjacent land uses; and

**WHEREAS**, the Red Bank Planning Commission held an advertised public hearing on this matter on January 21, 2021; and

**WHEREAS**, the Red Bank Planning Commission heard and considered all statements favoring or opposing the requested rezoning including that of the Southeast Tennessee Development District planning staff; and

**WHEREAS**, the Red Bank Planning Commission met on January 21, 2021 studied the petition in relation to existing zoning and land use and potential patterns of development, and voted unanimously to recommend approval of the rezoning request;

**WHEREAS**, the City Commission, upon notice, held a public hearing in conjunction with the regularly scheduled Commission Meeting on March 16, 2021; and

**WHEREAS**, comments in favor of and comments opposing the proposed rezoning were heard and considered; and

**WHEREAS**, the City Commission, having studied the recommendations of the Southeast Tennessee Development District planning staff and of the Red Bank Planning Commission, finds that requested use, subject to the conditions below, would not have a negative impact on adjacent land uses, is a reasonable extension of existing zones in the area; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RED BANK, TENNESSEE,  
AS FOLLOWS:**

SECTION 1. The Zoning Ordinances and Zoning Maps of this City are hereby amended by rezoning from R-1 Residential to R-T/Z Townhome and Zero Lot Line Residential, 1010 Lullwater Road, Tax Map Parcel No. 117K C 013,

SECTION 2. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 3. The zoning maps of this city shall be amended so as to reflect R-T/Z Townhome and Zero Lot Line Residential for the property described herein above and that said maps make specific reference to this Ordinance, with the restriction noted on the zoning map.

SECTION 4. Every section, sentence, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY RECORDER

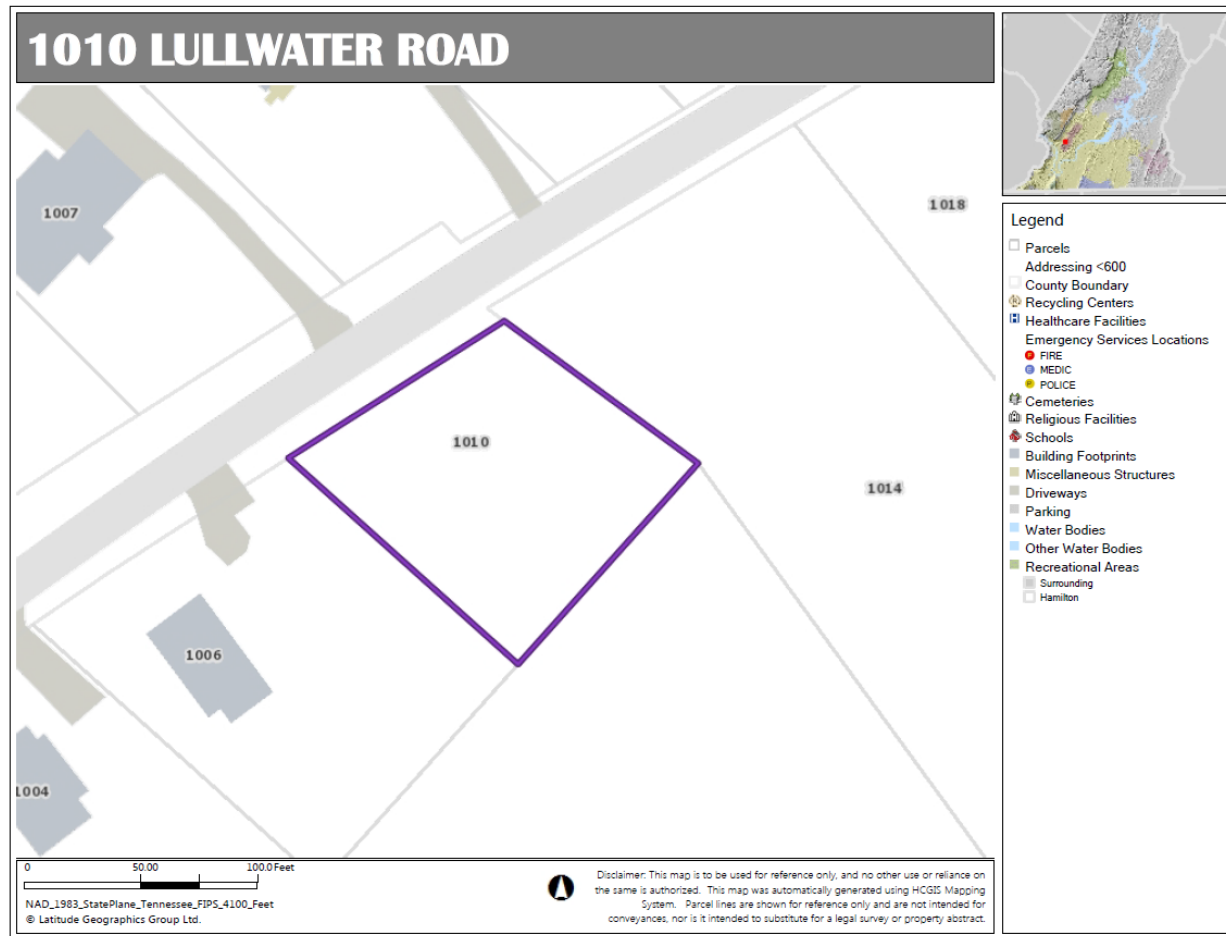
\_\_\_\_\_  
March 16, 2021  
PASSED ON FIRST READING

\_\_\_\_\_  
April 6, 2021  
PASSED ON SECOND READING AND FINAL READING

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

## EXHIBIT A: PARCEL MAP





## ORDINANCE NO. 21-1183

### AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO AMEND FY 2021 OPERATING BUDGET TO APPROPRIATE DONATION FUNDING FROM THE RED BANK AND SODDY DAISY CHARITABLE FOUNDATION IN THE AMOUNT OF \$22,500.00 AND TO ACCEPT CONDITIONS OF THE GRANT

**WHEREAS**, the City of Red Bank received a donation of \$22,500.00 from the Red Bank Soddy Daisy Foundation to be used towards the purchase of Playground equipment and Pavilion; and

**WHEREAS**, as a condition of the grant the Red Bank and Soddy Daisy Foundation has stipulated the following requirements on the use of the donation funds:

- (a) The funds are to be used for the sole and exclusive purpose of partially funding the purchase of playground equipment at the Joseph Glasscock Community Center.
- (b) City agrees to keep the funds segregated in a separate interest bearing account established solely for the stated purposes.
- (c) City agrees to affirm to the Foundation, not less frequently than annually, that the funds continue to be held or are being expended or have been expended for the stated purpose and for no other.

**NOW, THEREFORE, BE IT ORDAINED** by the Commission of the City of Red Bank, Tennessee, as follows:

SECTION 1: That the City accepts the above mentioned conditions set forth by The Red Bank and Soddy Daisy Charitable Foundation.

SECTION 2: That the Fiscal Year 2021 Operating Budget be and is hereby amended to include the donation funding as provided:

#### **REVENUES**

Donated Revenue	<u>\$22,500.00</u>
<b>TOTAL REVENUES</b>	<b><u>\$22,500.00</u></b>

#### **EXPENDITURES**

Public Works	
Community Center Playground/Pavilion	<u>\$22,500.00</u>
<b>TOTAL EXPENDITURES</b>	<b><u>\$22,500.00</u></b>

SECTION 3: This Ordinance shall take effect upon the date of its passage upon second and final reading the welfare of the citizens of the City of Red Bank requiring it.

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MAYOR

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CITY RECORDER

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March 16, 2021

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PASSED ON FIRST READING

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April 6, 2021

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PASSED ON SECOND AND FINAL READING

APPROVED AS TO FORM:

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CITY ATTORNEY

## ORDINANCE NO 21-1184

### AN ORDINANCE TO AMEND FY 2021 OPERATING BUDGET TO APPROPRIATE DONATION FUNDING FOR THE CITY OF RED BANK TOTALING \$5,000.00 FOR THE POLICE DEPARTMENT.

**WHEREAS**, the City of Red Bank received a donation of \$5,000.00 from an anonymous donor to be used toward the purchase of equipment for the Red Bank Police Department; and

**WHEREAS**, the anonymous donor requested that the donation be used specifically towards the purchase of equipment for the Police Department; and

**WHEREAS**, it is necessary for the City of Red Bank to accept donation funding and amend the Fiscal Year 2021 Operating Budget to appropriate these funds totaling \$5,000.00 for use by the Police Department.

**NOW, THEREFORE, BE IT RESOLVED** by the Commission of the City of Red Bank that the Donation Funding for the Police Department in the amount of \$5,000.00 be accepted by the City of Red Bank.

**BE IT FURTHER RESOLVED**, that the Fiscal Year 2020 Operating Budget be and is hereby amended to include the donation funding as provided:

#### **REVENUES**

<i>Donated Revenue</i>	<u>\$ 5,000.00</u>
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<b>TOTAL REVENUES</b>	<b><u>\$ 5,000.00</u></b>
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#### **EXPENDITURES**

<i>Equipment purchase</i>	<u>\$ 5,000.00</u>
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<b>TOTAL EXPENDITURES</b>	<b><u>\$ 5,000.00</u></b>
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MAYOR

\_\_\_\_\_  
CITY RECORDER

\_\_\_\_\_  
March 16, 2021  
PASSED ON FIRST READING

\_\_\_\_\_  
April 6, 2021  
PASSED ON SECOND AND FINAL READING

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

## **ORDINANCE NO. 21-1185**

### **AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, CONDITIONALLY AMENDING THE ZONING ORDINANCE AND MAPS OF THIS CITY TO REZONE PROPERTY LOCATED AT 5309 Delashmitt Road FROM R-1 RESIDENTIAL TO R-T/Z TOWNHOME AND ZERO LOT LINE RESIDENTIAL SUBJECT TO CERTAIN RESTRICTIONS**

**WHEREAS**, Michael Cinelli on behalf of Reinvented Concepts, who owns the property, has petitioned the Red Bank Planning Commission and the Red Bank City Commission to rezone the property located at 5309 Delashmitt Road, Hamilton County Tax Map 099N Group D Parcel 19, from R-1 Residential to R-T/Z Townhome and Zero Lot Line Residential; and

**WHEREAS**, the Southeast Tennessee Development District planning staff recommended conditionally approving the request because certain of the additional permitted land uses of the R-T/Z zone would have a negative impact on adjacent land uses; and

**WHEREAS**, the Red Bank Planning Commission held an advertised public hearing on this matter on January 21, 2021; and

**WHEREAS**, the Red Bank Planning Commission heard and considered all statements favoring or opposing the requested rezoning including that of the Southeast Tennessee Development District planning staff; and

**WHEREAS**, the Red Bank Planning Commission on January 21, 2021 has studied the petition in relation to existing zoning and land use and potential patterns of development and did recommend rezoning the property to R-T/Z Townhome and Zero Lot Line Residential with the condition that development be limited to detached single family homes with a maximum density of three (3) units per acre; and

**WHEREAS**, the City Commission, upon notice, held a public hearing in conjunction with the regularly scheduled Commission Meeting on March 16, 2021; and

**WHEREAS**, comments in favor of and comments opposing the proposed rezoning were heard and considered; and

**WHEREAS**, the City Commission, having studied the petition, the recommendations of the Southeast Tennessee Development District planning staff and of the Red Bank Planning Commission, finds that requested use, subject to the conditions below, would not have a negative impact on adjacent land uses, is a reasonable extension of existing zones in the area; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RED BANK, TENNESSEE, AS FOLLOWS:**

SECTION 1. The Zoning Ordinances and Zoning Maps of this City are hereby amended by conditionally rezoning from R-1 Residential to R-T/Z Townhome and Zero Lot Line Residential, 5309 Delashmitt Road, Tax Map Parcel No. 099N D 019, subject to the following conditions: development shall be limited to detached single family homes with a maximum density of three (3) units per acre and that no other R-T/Z Townhome and Zero-Lot Line uses shall be permitted, with the restrictions noted on the zoning maps.

SECTION 2. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 3. If the Owner does not accept the limiting conditions and restrictions within sixty (60) days next following approval on second and final reading, the Ordinance shall automatically become null and void.

SECTION 4. Every section, sentence, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY RECORDER

\_\_\_\_\_  
April 6, 2021  
PASSED ON FIRST READING

\_\_\_\_\_  
April 20, 2021  
PASSED ON SECOND READING AND FINAL READING

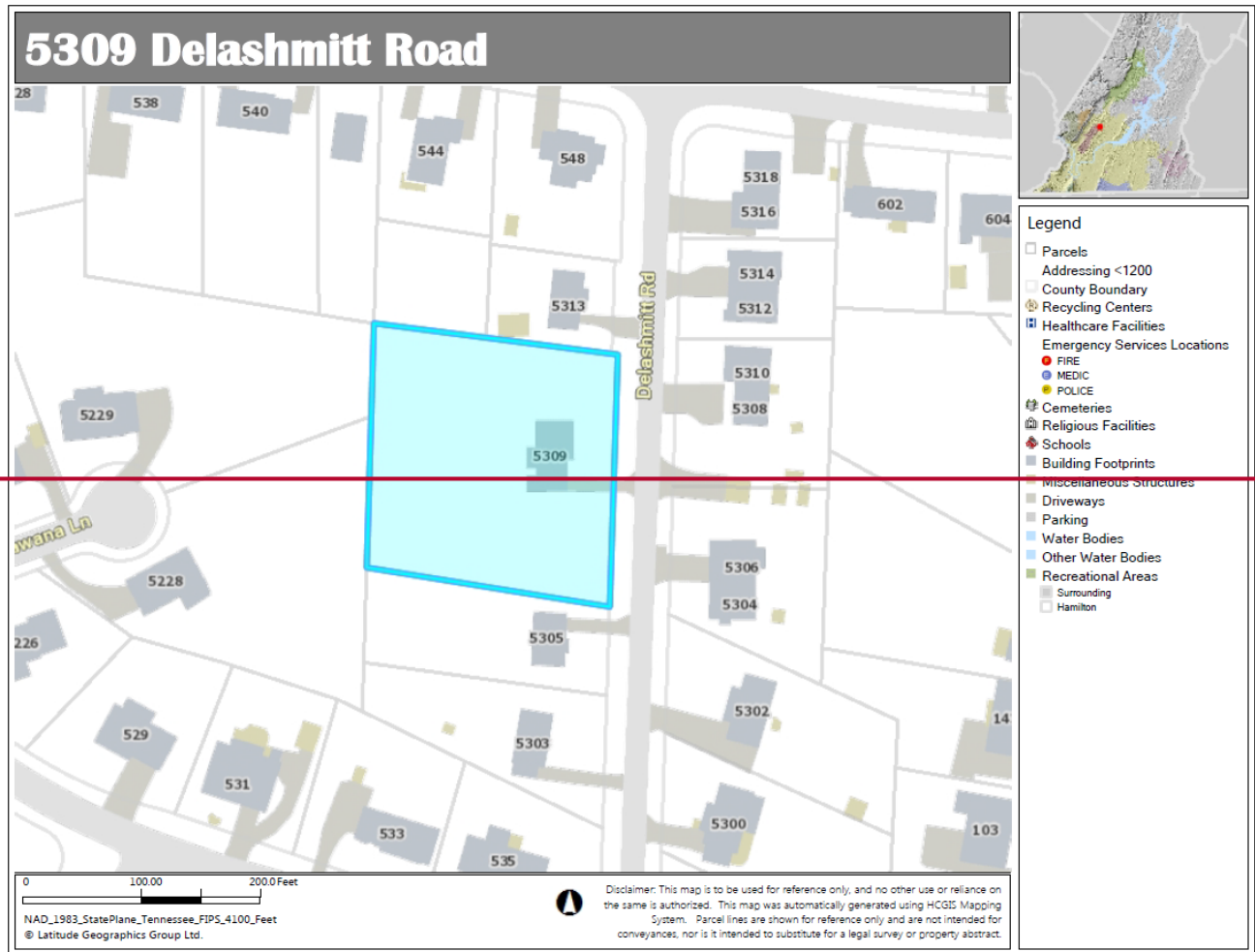
APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

ACCEPTED, ACKNOWLEDGED AND  
AGREED AS TO THE LIMITING FACTORS,  
CONDITIONS AND REQUIREMENTS HEREOF

BY: \_\_\_\_\_  
Applicant/Owner

## EXHIBIT A: PARCEL MAP







## **ORDINANCE NO. 21-1186**

### **AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, AMENDING THE ZONING ORDINANCE AND MAPS OF THIS CITY TO REZONE PROPERTY LOCATED AT 303 AND 305 HEDGEWOOD DRIVE FROM R-1 RESIDENTIAL TO RT-1 RESIDENTIAL TOWNHOUSE SUBJECT TO CERTAIN RESTRICTIONS**

**WHEREAS**, Caremco Investment Group LLC and Cynthia Carver, who owns the property, has petitioned the Red Bank Planning Commission and the Red Bank City Commission to rezone the property located at 303 and 305 Hedgewood Drive, Hamilton County Tax Map 126C Group D Parcels 20 and 21, from R-1A Residential to RT-1 Residential Townhouse; and

**WHEREAS**, the Southeast Tennessee Development District planning staff recommended approving the request because the permitted land uses of the RT-1 zone would not have a negative impact on adjacent land uses; and

**WHEREAS**, the Red Bank Planning Commission held an advertised public hearing on this matter on January 21, 2021; and

**WHEREAS**, the Red Bank Planning Commission heard and considered all statements favoring or opposing the requested rezoning including that of the Southeast Tennessee Development District planning staff; and

**WHEREAS**, the Red Bank Planning Commission met on January 21, 2021 studied the petition in relation to existing zoning and land use and potential patterns of development and voted unanimously to recommend approving the requested rezoning; and

**WHEREAS**, the City Commission, upon notice, held a public hearing in conjunction with the regularly scheduled Commission Meeting on April 6, 2021; and

**WHEREAS**, comments in favor of and comments opposing the proposed rezoning were heard and considered; and

**WHEREAS**, the City Commission, having studied the recommendations of the Southeast Tennessee Development District planning staff and of the Red Bank Planning Commission, finds that requested use, subject to the conditions below, would not have a negative impact on adjacent land uses, is a reasonable extension of existing zones in the area;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RED BANK, TENNESSEE, AS FOLLOWS:**

SECTION 1. The Zoning Ordinances and Zoning Maps of this City are hereby amended by conditionally rezoning from R-1 Residential to RT-1 Residential Townhouse, 303 and 305 Hedgewood Drive, Hamilton County Tax Map 126C Group D Parcels 20 and 21, subject to the following condition:

- 1) Adequate plans, prepared by a Registered Professional Storm water Engineer, paid for by the owner/applicant, and subject to approval by the City Administration. Construction and installation of Storm water infrastructure must be provided prior to the issuance of any building permit, with the restrictions noted on the zoning maps.

SECTION 2. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 3. If the Owner does not accept the limiting conditions and restrictions within sixty (60) days next following approval on second and final reading, the Ordinance shall automatically become null and void.

SECTION 4. Every section, sentence, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY RECORDER

\_\_\_\_\_  
April 6, 2021  
PASSED ON FIRST READING

\_\_\_\_\_  
April 20, 2021  
PASSED ON SECOND READING AND FINAL READING

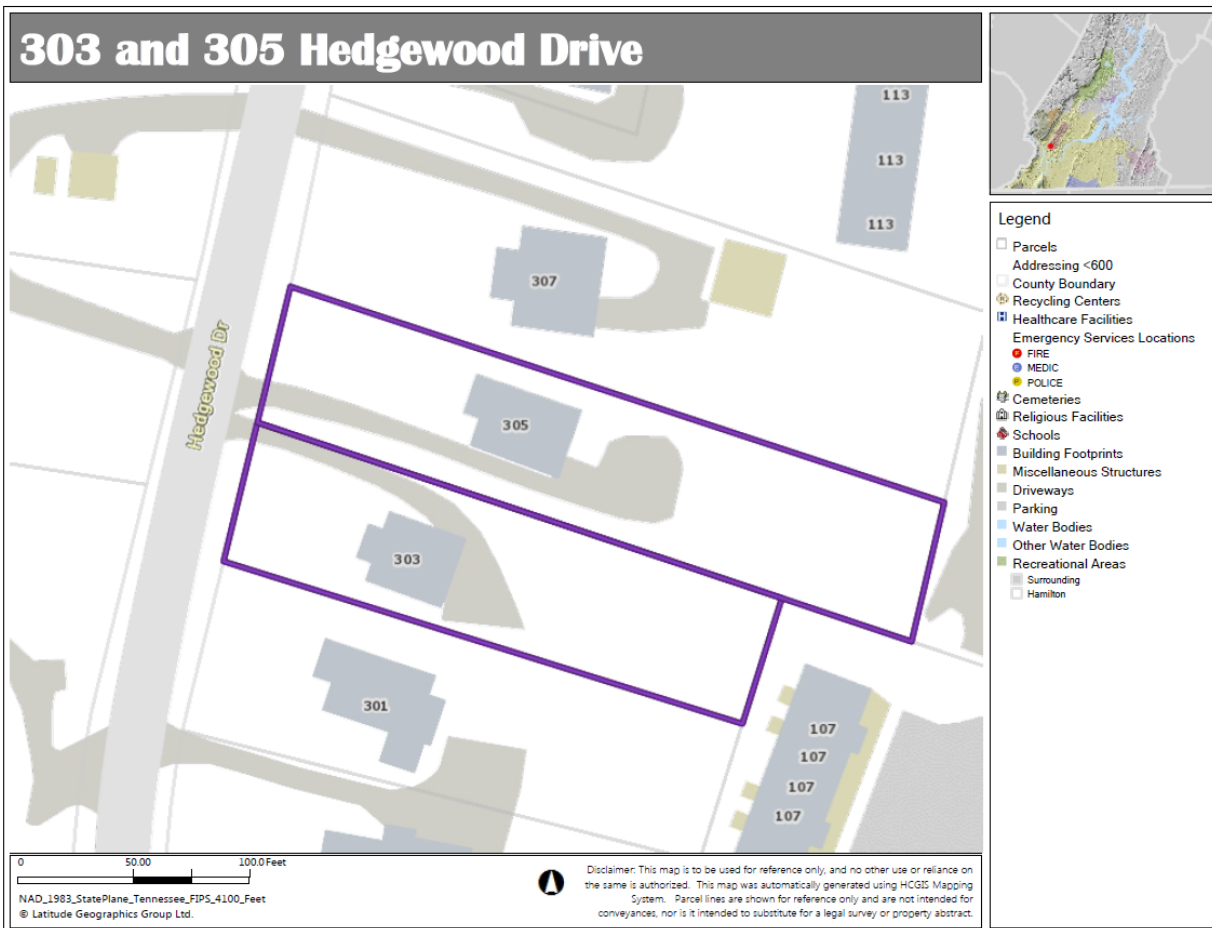
APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

ACCEPTED, ACKNOWLEDGED AND  
AGREED AS TO THE LIMITING FACTORS,  
CONDITIONS AND REQUIREMENTS HEREOF

BY: \_\_\_\_\_  
Applicant

## EXHIBIT A: PARCEL MAP



**ORDINANCE NO. 21-1187**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, AMENDING THE ZONING ORDINANCE AND MAPS OF THIS CITY TO CONDITIONALLY REZONE PROPERTY LOCATED AT 8 GAYLORD STREET FROM R-1A RESIDENTIAL TO R-3 RESIDENTIAL PURSUANT TO CERTAIN RESTRICTIONS**

**WHEREAS**, Same, who owns the property, has petitioned the Red Bank Planning Commission and the Red Bank City Commission to rezone the property located at 8 Gaylord Street, Hamilton County Tax Map 117D Group D Parcel 5, from R-1A Residential to R-3 Residential; and

**WHEREAS**, the Southeast Tennessee Development District planning staff recommended conditionally approving the request because certain of the additional permitted land uses of the R-3 zone would have a negative impact on adjacent land uses; and

**WHEREAS**, the Red Bank Planning Commission held an advertised public hearing on this matter on January 21, 2021; and

**WHEREAS**, the Red Bank Planning Commission heard and considered all statements favoring or opposing the requested rezoning including that of the Southeast Tennessee Development District planning staff; and

**WHEREAS**, the Red Bank Planning Commission on January 21<sup>st</sup>, 2021 studied the petition in relation to existing zoning and land use and potential patterns of development and voted unanimously to recommend denying the requested rezoning, i.e. to R-3 Residential; and

**WHEREAS**, the City Commission, upon notice, held a public hearing in conjunction with the regularly scheduled Commission Meeting on March 16, 2021; and

**WHEREAS**, comments in favor of and comments opposing the proposed rezoning were heard and considered; and

**WHEREAS**, the City Commission, having studied the petition, recommendations of the Southeast Tennessee Development District planning staff and of the Red Bank Planning Commission, finds that the requested use, i.e. to allow a single (1) short-term rental unit only and not for any other R-3 permitted uses, subject to the conditions below, would not have a negative impact on adjacent land uses, and is a reasonable extension of existing zoning uses in the area; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RED BANK, TENNESSEE, AS FOLLOWS:**

SECTION 1. The Zoning Ordinances and Zoning Maps of this City are hereby amended by conditionally rezoning from R-1A Residential to R-3 Residential, 8 Gaylord Street, Tax Map

Parcel No. 117D D 005, subject to the following conditions and restrictions:

- 1) The only use permitted shall be a single-family home or a duplex housing a maximum of one (1) short term rental unit
- 2) If the short -term rental license be hereinafter issued and if the same be thereafter revoked or any such license lapse for a period of more than ninety (90) days, the zoning shall thereby automatically revert to R-1 Residential without any formal action by the City of Red Bank.

SECTION 2. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 3. The zoning maps of this city shall be amended so as to conditionally reflect R-3 Residential, but subject to the following conditions: the only use permitted shall be a single-family home or a duplex housing a maximum of one (1) short term rental unit; and if the short -term rental license be hereinafter issued and if the same be thereafter revoked or any such license lapse for a period of more than ninety (90) days, the zoning shall thereby automatically revert to R-1 Residential without any formal action by the City of Red Bank, for the property described herein above and that said maps make specific reference to this Ordinance, with the restriction noted on the zoning map.

SECTION 4. If the Owner does not accept the limiting conditions and restrictions by signing in the space provided below within sixty (60) days next following approval on second and final reading, this Ordinance shall automatically become null and void.

SECTION 5. Every section, sentence, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY RECORDER

April 6, 2021

\_\_\_\_\_  
PASSED ON FIRST READING

**DENIED 4/20/2021**

\_\_\_\_\_  
PASSED ON SECOND READING AND FINAL READING

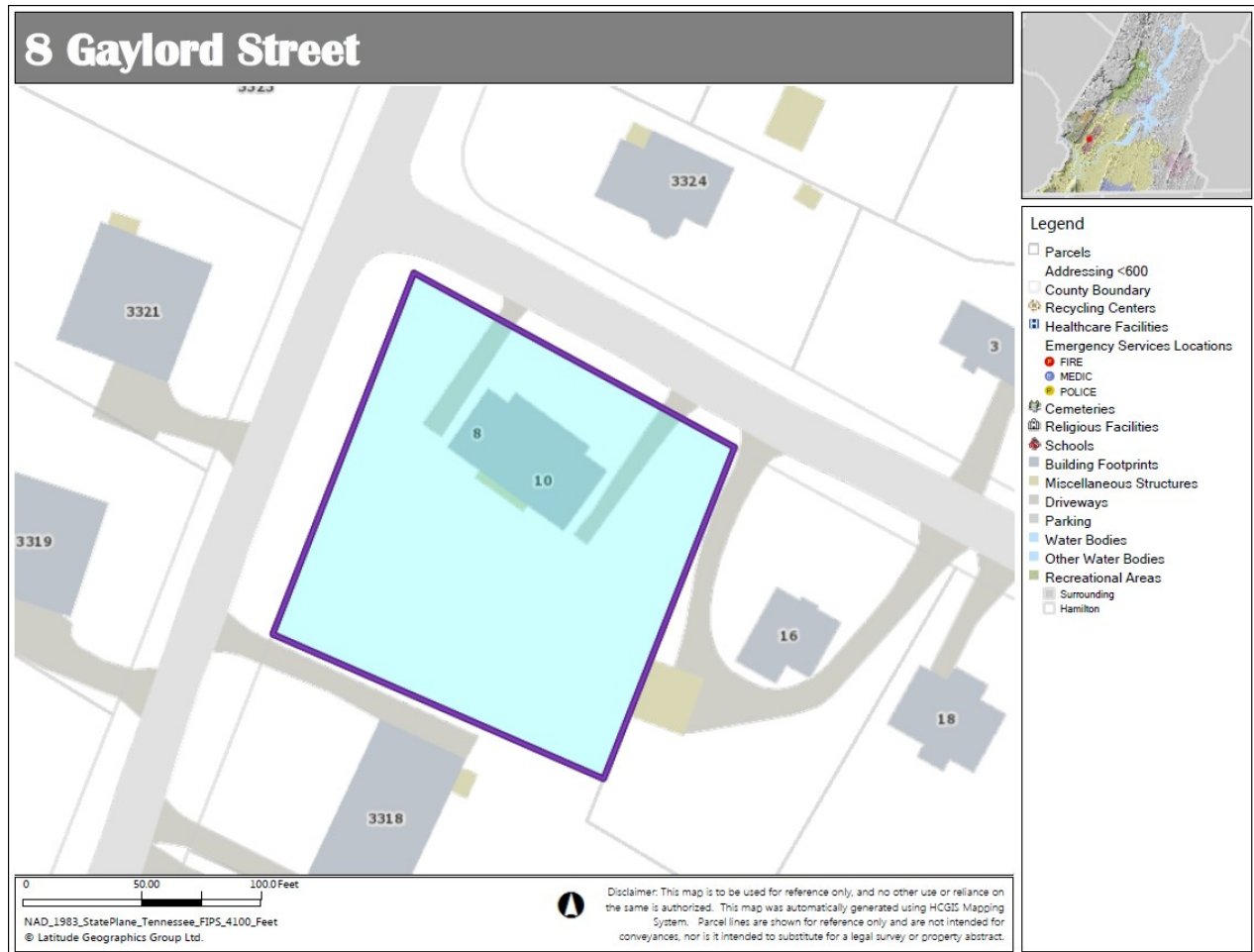
APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

ACCEPTED, ACKNOWLEDGED AND  
AGREED AS TO THE LIMITING FACTORS,  
CONDITIONS AND REQUIREMENTS HEREOF

BY: \_\_\_\_\_  
Applicant/Owner

## EXHIBIT A: PARCEL MAP



ORDINANCE: 21-1188

AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE ESTABLISHING PROCESSES AND PROCEDURES WITH RESPECT TO THE SALE, DEVELOPMENT AND DISPOSITION OF REAL PROPERTY, CODIFIED IN THE RED BANK CITY CODE IN THE APPENDIX, CHAPTER F, THEREOF AND ASSIGNED THE TITLE: SALE, DEVELOPMENT AND DISPOSITION OF REAL PROPERTY.

WHEREAS, the City Charter provides that the City has the right, power and authority to acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge or otherwise dispose of property, real or personal, and any estate or interest therein, within or without the City or State; and

WHEREAS, the enumeration of such powers by Charter are not exclusive or restrictive of said general powers and authority but are to be construed liberally to effectuate the general purposes thereof and for the use and benefit of the Citizens of the City of Red Bank, Tennessee; and

WHEREAS, which powers are to be exercised by the City Commission, acting in conjunction with the City Manager and with the assistance, from time to time, of its various boards and agencies however denominated and as the City Commission shall determine; and

WHEREAS, the City Commission has determined that it is appropriate to establish a set of policies, of and with respect to the future acquisition, and present and future ownership, maintenance, improvement, sale, leasing, mortgaging, pledging and/or other disposition of real property, whether now owned or hereafter acquired by the City of Red Bank and to aid in the planning, management, and realization of value from its properties and whether in the context of disposition or sale of properties deemed and determined to have likely outlived their usefulness to the City and to the Citizens and/or as to which properties have ceased to serve a useful purpose, whether presently or in the foreseeable future, which properties shall be categorized as “surplus real property”; and

WHEREAS, the City Commission has determined that as to properties owned or acquired for general or specific purposes and/or intended, whether by design or plan in acquisition or as a consequence as the passage of time and/or the occurrences of other surrounding circumstances or events may be deemed appropriate for future use, for conversion to liquid funds at fair market value and/or for some other purpose(s) to benefit the public health, safety and welfare, and whether now or in the future and as to which such may or shall be intended to enhance the livability of the City and betterment of the Citizens of the City of Red Bank, and/or the public good, the City may sell, transfer and convey, for fair market value and/or may retain and/or dispose of such properties for development, to subdivide any and/or all such property/properties for such prices, upon such terms, and subject to such conditions, restrictions and requirements as the City Commission shall determine as are fair, just, appropriate, required, to and for the best interest of the City and, and the enhancement of the public welfare, now or in the future.

NOW, THEREFORE, be it ordained by the City of Red Bank, Tennessee that the sale development or other disposition of real property acquired by or belonging to the City shall be subject to the following set of guidelines, the same to be codified in the Red Bank City Code in the Appendix Section as APP-F-1:

SECTION 1. The City Commission shall have sole and exclusive authority, for the City, with respect to the sale or disposition of real property owned by the City and whether denominated “surplus real property” and/or as “City property for public use, sale or development,” and/or for any other categorization of real property owned by the City.

SECTION 2. Upon a declaration by the City Commission that real property has outlived its usefulness or that the same is unlikely to be found to be useful or beneficial for any reasonably ascertainable municipal purpose now, or in the foreseeable future, the City may declare such as “surplus real property” and upon such determination, may, but shall not be required to incorporate preliminary plans for sale or other disposition and, the matter shall be referred to the Red Bank Planning Commission for review and for its recommendation(s) as to same.

The Planning Commission may consider such matter pursuant to its lawful written policies and procedures as it determines is appropriate and under the circumstances then existent; provided, failure of the Red Bank Planning Commission to return to the Red Bank City Commission a recommendation within sixty (60) days of the date of referral shall be deemed an approval of the recommendation and reference by the City Commission.

SECTION 3. Real property owned or acquired or held by the City for general or specific purposes and intended, whether by design or plan and acquisition or as a consequence of the passage of time or the occurrence of other circumstances or events, and which the City Commission may deem or declare to be appropriate for future use, or for conversion to liquid funds at fair market value or for some other purpose(s) to benefit the public welfare, now or in the future, and/or to enhance the livability of the City and the public good may be sold, transferred, conveyed for fair market value, retained and developed as the City Commission shall determine as is appropriate, and/or may be subdivided and/or sold or partially subdivided or sold for such prices and upon such terms and subject to such conditions precedent and such conditions subsequent and/or restrictions and conditions as the City Commission shall determine are fair, just, appropriate, required, beneficial and/or necessary for the best interests of the City and its Citizens and for the enhancement of the public welfare. Such property/properties shall be deemed “City Property for public use, sale or development.”

(A) Upon determination by the City Commission, whether or not initiated by City administration and/or one or more of the members of the City Commission, acting by majority vote, such property may be determined to be appropriate for sale in whole or in part, either to realize the fair market value thereof and/or to further some desirable development or redevelopment and/or public recreational purpose, intended or resulting in a calculated benefit to the health, safety, and welfare of the Citizens of the City of Red Bank, Tennessee. The City Commission, according to such processes as it shall from time to time determine, shall propose its specific and/or general plans and/or public benefit objectives in a plan for such sale, disposition, development, redevelopment, sale subject to conditions, restrictions, covenants and requirements and, in such circumstance(s).



(B) upon such determination and the preparation of a plan or RFP or statement of other dispositional intent as to any such City property for public use, sale or development, the matter shall be referred to the Red Bank Planning Commission for its review and recommendation, including without limitation, specific recommendations as to development criteria, legal restrictions, and requirements and conditions for further development and such other matters and considerations as the Red Bank Planning Commission is authorized to include in its recommendations; provided, failure of the Red Bank Planning Commission to return to the Red Bank City Commission a recommendation as to the City Commission within sixty (60) days of the day of referral shall be deemed an approval of the recommendation and reference by the City Commission.

(1) Upon receipt (within the sixty (60) day time period above referenced) of the recommendation(s) of the Red Bank Planning Commission, the City, acting by and through the City Manager and/or as otherwise authorized or determined, may proceed to formulate its specific and/or general (a) offer/listing agreement/advertisement/sale documents which may include but not necessarily limited to broker represented sales and/or public auctions and may thereafter proceed with such sale(s) with the final terms of approval of any such offer, contract, proposal being subject to the approval/disapproval of the City Commission in an advertised open meeting and with such topic on the agenda, provided however at least one public hearing shall be held by the Red Bank City Commission prior to finalizing or proceeding with the documentation or distribution of any such RFP or other plan of disposition, sale, or development. Nothing set out herein shall prohibit such additional public hearings and/or public input as the City Commission shall determine is appropriate from time to time and with respect to any particular property or plan/concept/RFP then under consideration.

(2) in the context of a Request for Proposal (RFP), having been recommended to the Red Bank Planning Commission as above provided in Section II or Section III, upon receipt (within the sixty (60) day time period above referenced) of the recommendation(s) of the Red Bank Planning Commission, the City, acting by and through the City Manager and subject to the approval of the City Commission, may proceed to formulate its specific and/or general RFP and to further solicit proposals for development within the parameters as previously prepared by the City Manager and approved by the City Commission, and which shall include time periods for response, which responses "Proposals" shall be, once received, circulated by the City Manager within fifteen (15) days of receipt to (i) the City Commission and (ii) to the Red Bank Planning Commission and thereafter within fifteen (15) days to be posted on the City's website.

(C) The City Manager and/or the City Commission may request/suggest modifications of the submittals of the various respondents, which responses, upon passage of the City Manager determined "time for responses" opportunity, shall be shared with the City Commission and the Red Bank Planning Commission within fifteen (15) days of receipt by the City Manager, together with such evaluation, analysis and/or recommendation(s) as the City Manager shall determine to provide. The Red Bank Planning Commission shall have thirty (30) calendar days from the date of referral to make its further recommendation, if any.

(D) The City Commission shall, upon completion of the above referenced process(es) either (i) accept or reject such proposal(s) for restricted and/or non-restricted

development, sale disposition as proposed by the City Manager, (ii) authorize a Contract for Sale of the real property, either without or subject to such development restrictions, conditions, requirements and/or plans as the City Commission shall theretofore have determined and approved, (iii) issue such directives to the City Manager for further interaction and/or negotiation with the prospective purchaser, offeror, Proposer as the City Commission shall deem appropriate under all the circumstances then or there existing, and/or (iv) make such other determinations, requirements or directives as the City Commission shall then determine which may include a determination to withdraw such property from consideration for sale, development or other disposition.

SECTION 4. Every section, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase hereof.

SECTION 5. This Ordinance shall take effect from and after the date of its final passage the health, safety and welfare of the Citizens of the City of Red Bank requiring it.

\_\_\_\_\_  
Mayor (date)

ATTEST:

\_\_\_\_\_  
City Recorder (date)

April 20, 2021  
Approved on First Reading

May 4, 2021  
Approved on Second and Final Reading

Approved as to form:

\_\_\_\_\_  
City Attorney

**ORDINANCE NO. 21-1189**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO AMEND THE FY 2021 OPERATING BUDGET, BEGINNING JULY 1, 2020 AND ENDING JUNE 30, 2021 IN ORDER TO APPROPRIATE UNBUDGETED EXPENDITURES AND GRANT FUNDING**

**WHEREAS**, the City of Red Bank approved Ordinance No. 20-1170, the Fiscal Year 2021 appropriations ordinance, on June 16, 2020 ; and

**WHEREAS**, the City of Red Bank has experienced unplanned situations which required various unbudgeted expenditures in Fiscal Year 2021; and

**WHEREAS**, it is necessary for the City of Red Bank to request Commission approval to amend the FY 2021 Operating Budget for items which have exceeded budgeted appropriations, were not anticipated, or are carry-over items from the previous fiscal year; and

**WHEREAS**, the City of Red Bank had several other revenue sources to offset these encumbrances, including grant and donation funding from various sources; and

**NOW, THEREFORE, BE IT ORDAINED**, by the Commission of the City of Red Bank, Tennessee as follows:

SECTION 1: that the Fiscal Year 2021 Operating Budget be and is hereby amended as provided:

**GENERAL FUND**  
**REVENUES**

Grant Revenue	\$111,238.00
Fund Balance	\$874,448.00

<b>TOTAL REVENUES</b>	<b><u>\$ 985,686.00</u></b>
-----------------------	-----------------------------

**EXPENDITURES**

Public Works	
Fair St. ROW-1/2	\$207,409.00
<i>-Wiser Engineering</i>	\$42,499.00
Laurel Drive-Bridge	\$150,000.00
Valley View Ave.-Bridge	\$120,000.00
<i>-Wiser Engineering</i>	\$9,340.00

Legislative	
3113 Dayton Blvd Purchase	\$399,538.00

Administration	
Vacation Payout	\$33,900.00

Police Department	
<i>Norfolk Charitable Grant</i>	\$5,000.00
<i>HIDTA Grant</i>	\$18,000.00

<b>TOTAL EXPENDITURES</b>	<b><u>\$ 985,686.00</u></b>
---------------------------	-----------------------------

**STATE STREET AID**  
**REVENUES**

Grant Revenue	\$276,595.00
Fund Balance	\$97,860.00
<b>TOTAL REVENUES</b>	<b><u>\$ 374,455.00</u></b>

**EXPENDITURES**

TIP Paving PIN 121881	\$26,177.00
TIP Sidewalks PIN 116152	\$162,180.00
Emergency Repair-Fair St. ROW-1/2	\$186,098.00
<b>TOTAL EXPENDITURES</b>	<b><u>\$ 374,455.00</u></b>

SECTION 2. This Ordinance shall take effect upon the date of its passage upon second and final reading, the welfare of the citizens of the City of Red Bank requiring it.

Hollie Berry 5/20/21  
Mayor Hollie Berry (DATE)

ATTEST:

Tracey Perry 5/20/21  
City Recorder Tracey Perry (DATE)

May 4, 2021

Passed on First Reading

May 18, 2021

Passed on Second and Final Reading

Approved as to Form:

Carolyn Stule - 5/25/21  
City Attorney (DATE)

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, AMENDING THE ZONING ORDINANCE AND MAPS OF THIS CITY TO REZONE PROPERTY LOCATED AT 336 SWEETLAND DRIVE FROM R-1 RESIDENTIAL TO R-3 RESIDENTIAL PURSUANT TO CERTAIN RESTRICTIONS**

**WHEREAS**, Charlotte Franklin, who owns the property, has petitioned the Red Bank Planning Commission and the Red Bank City Commission to rezone the property located at 336 Sweetland Drive, Hamilton County Tax Map 126C Group F Parcel 10, from R-1 Residential to R-3 Residential; and

**WHEREAS**, the Southeast Tennessee Development District planning staff recommended denying the request due to the small size of the lot and spot zoning concerns; and

**WHEREAS**, the Red Bank Planning Commission held an advertised public hearing on this matter on April 15, 2021; and

**WHEREAS**, the Red Bank Planning Commission heard and considered all statements favoring or opposing the requested rezoning including that of the Southeast Tennessee Development District planning staff; and

**WHEREAS**, the Red Bank Planning Commission on April 15, 2021 studied the petition in relation to existing zoning and land use and potential patterns of development and voted unanimously to recommend denying the rezoning,

**WHEREAS**, the City Commission, upon notice, held a public hearing in conjunction with the regularly scheduled Commission Meeting on May 18, 2021; and

**WHEREAS**, comments in favor of and comments opposing the proposed rezoning were heard and considered; and

**WHEREAS**, the City Commission, having studied the recommendations of the Southeast Tennessee Development District planning staff and of the Red Bank Planning Commission, finds that requested use, subject to the conditions below, would not have a negative impact on adjacent land uses, is a reasonable extension of existing zones in the area; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RED BANK, TENNESSEE, AS FOLLOWS:**

**SECTION 1.** The Zoning Ordinances and Zoning Maps of this City are hereby amended by conditionally rezoning from R-1 Residential to R-3 Residential, 336 Sweetland Drive, Tax Map Parcel No. 126C F 101, subject to the following conditions:

- (1) The only use permitted shall be a single-family home with a maximum of one (1) short term rental unit
- (2) The applicant has indicated an intention to use the property, if rezoned, as a short-term rental property; if any such short -term rental license should be revoked or lapses for more than 90 days, the zoning shall revert to R-1.

SECTION 2. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 3. The zoning maps of this city shall be amended so as to conditionally reflect R-3 Residential, but subject to the conditions listed in Section 1 for the property described herein above and that said maps make specific reference to this Ordinance, with the restriction noted on the zoning map.

SECTION 4. If the Owner does not accept the limiting conditions and restrictions within sixty (60) days next following approval on second and final reading, the Ordinance shall automatically become null and void.

SECTION 5. Every section, sentence, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not affect or impair any other section, sentence, clause, or phrase.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY RECORDER

\_\_\_\_\_  
PASSED ON FIRST READING

\_\_\_\_\_  
PASSED ON SECOND READING AND FINAL READING

APPROVED AS TO FORM:

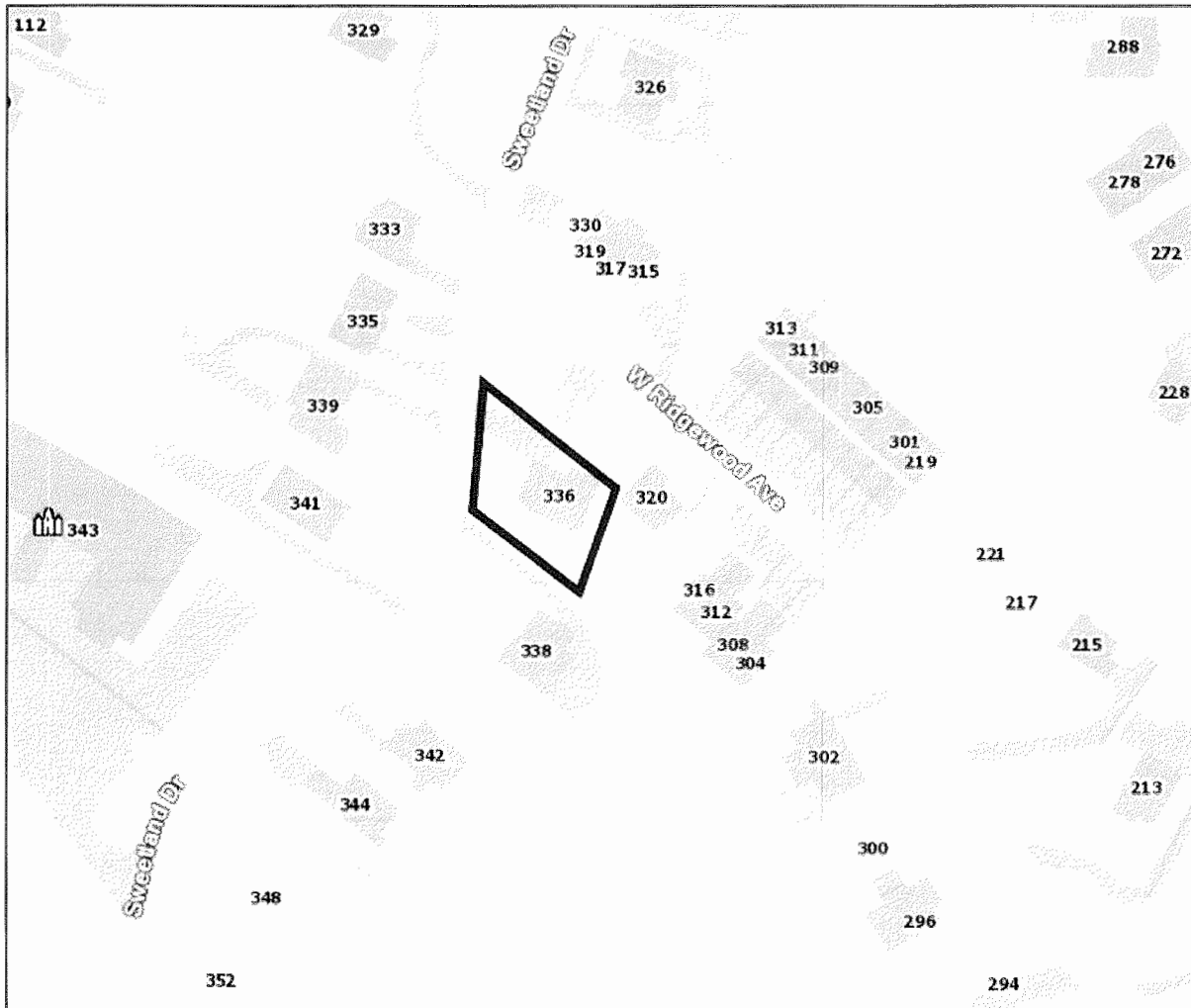
\_\_\_\_\_  
CITY ATTORNEY

ACCEPTED, ACKNOWLEDGED AND  
AGREED AS TO THE LIMITING FACTORS,  
CONDITIONS AND REQUIREMENTS HEREOF

CHARLOTTE FRANKLIN, OWNER/APPLICANT:

BY: \_\_\_\_\_  
OWNER / APPLICANT

## EXHIBIT A: PARCEL MAP



## NOTICE OF A PUBLIC HEARING

In accordance with *Tennessee Code Annotated* Section 13-7-203 (A), notice is hereby given of a public hearing on Ordinance Number \_\_\_\_\_. This hearing will be held during the regular Board of Commissioners meeting on \_\_\_\_\_, \_\_\_\_\_, 2021, at \_\_\_\_\_ p.m. at the Red Bank Municipal Building. The purpose of the public hearing is to receive input on ordinance rezoning the property at 336 Sweetland Drive (parcel 126C F 101) from R-1 Residential to R-3 Residential. All interested persons are encouraged to be present for this meeting and to speak in favor or disfavor of the proposed resolution.



## **ORDINANCE NO. 21-1191**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO PROVIDE FOR THE GENERAL REVENUE THEREOF FOR THE FISCAL YEAR 2021-2022 ON AN INTERIM BASIS PENDING RECEIPT OF THE “CERTIFIED RATE” FROM THE ASSESSOR OF PROPERTY OF HAMILTON COUNTY, TENNESSEE, PURSUANT TO T.C.A. SECTION 67-5-1701, TO BE KNOWN AS THE GENERAL REVENUE ORDINANCE FOR SAID YEAR**

WHEREAS, pursuant to the provisions of T.C.A. §67-5-1601 et seq., the Hamilton County Assessor of Property has recently completed or is in the process of completing the reappraisal process therein required; and

WHEREAS, as of the adoption of this Ordinance, the Assessor of Property has not as yet provided to the City of Red Bank the “certified tax rate” mandated by T.C.A. §67-5-1701, which rate is calculated so as to provide the same ad valorem revenue for the City of Red Bank as was levied during the fiscal year 2018-2019; and

WHEREAS, it is necessary, and required by other provisions of law, that the city set its tax rate for the ensuing fiscal year on or before June 30 of each year; and

WHEREAS, projected budgetary requirements for the fiscal year 2021-2022 make it likely that revenues in excess of that raised by the tax rate for the fiscal year 2020-2021 will have to be raised but that it is also necessary that the requirements of T.C.A. §67-5-1702 be properly complied with.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF RED BANK, TENNESSEE, AS FOLLOWS:

SECTION 1. Pending receipt of the “certified tax rate” pursuant to T.C.A. §67-5-1701 from the Hamilton County Tax Assessor, that there be and there is hereby levied a tax on each \$100 of taxable property in the City of Red Bank, Tennessee, as of January 1, 2021 for the fiscal year July 1, 2021 through June 30, 2022, as follows:

“General Fund Tax”	\$1.39
Total Tax	\$1.39

SECTION 2. Provided further that conditioned upon compliance with the provisions of T.C.A. §67-5-1702, that the City may subsequently set a tax rate equal to, in excess of or less than the certified rate by resolution and/or by subsequently enacted ordinance.

SECTION 3. The engaging in any vocation, occupation business or business activity, enumerated, described or hereby declared to be a privilege, and each person defined in said Act, shall pay for exercising said privilege to this City the sums authorized and permitted to be charged by municipalities under the provisions of said Act. All of the provisions of said Chapter 387, Public Acts of Tennessee for the year 1971, insofar as they are applicable to, or pertaining to, the levying of taxes, by a municipality, are hereby adopted as fully and completely as though specifically set forth therein.

SECTION 4. This ordinance shall be known as the General Revenue Ordinance for the fiscal year 2021-2022, and until such time as an ordinance or, as provided above, a resolution, amending this Ordinance can be enacted, shall hereafter be automatically amended and adjusted, based on the assessment to be certified by the Hamilton County Assessor of Property so as to produce the revenues necessary to meet the budget requirements of Ordinance No. 21-1192, for the "General Fund Tax" and the Total Tax, as set forth in Section 1 hereof, supra, and this Ordinance shall take effect from and after the date of its final passage, the public welfare of the City of Red Bank, Tennessee, requiring it.

SECTION 5. All Ordinances or part of Ordinances in conflict herewith are hereby repealed.

SECTION 6. Every section, sentence, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause or phrase.

Hollie Berry 6/17/21  
MAYOR HOLLIE BERRY (DATE)

Tracey L Perry 6/17/21  
CITY REC TRACEY PERRY (DATE)

June 1, 2021  
PASSED ON FIRST READING

June 15, 2021  
PASSED ON SECOND AND FINAL READING

APPROVED AS TO FORM:

  
CITY ATTORNEY



**ORDINANCE NO. 21-1192**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE ADOPTING THE ANNUAL BUDGET AND TAX RATE OF \$1.39 FOR THE FISCAL YEAR BEGINNING JULY 1, 2021 AND ENDING JUNE 30, 2022**

WHEREAS, *Tennessee Code Annotated* Title 9 Chapter 1 Section 116 requires that all funds of the State of Tennessee and all its political subdivisions shall first be appropriated before being expended and that only funds that are available shall be appropriated; and

WHEREAS, the Municipal Budget Law of 1982 requires that the governing body of each municipality adopt and operate under an annual budget ordinance presenting a financial plan with at least the information required by that state statute, that no municipality may expend any moneys regardless of the source except in accordance with a budget ordinance and that the governing body shall not make any appropriation in excess of estimated available funds; and

WHEREAS, the Board of Mayor and Commissioner's has published the annual operating budget and budgetary comparisons of the proposed budget with the prior year (actual) and the current year (estimated) in a newspaper of general circulation not less than ten (10) days prior to the meeting where the Board will consider final passage of the budget.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF MAYOR AND COMMISSIONERS OF THE CITY OF RED BANK, TENNESSEE AS FOLLOWS:

SECTION 1: That the governing body projects anticipated revenues from all sources and appropriations and planned expenditures for each department, boards, office or other agency of the municipality, herein presented together with the actual annual receipts and expenditures of the last preceding fiscal year and the estimated annual expenditures for the current fiscal year, and from those revenues and unexpected and unencumbered funds as follows for fiscal year 2021, and including the projected ending balances for the budget year; the actual ending balance for the most recent ended fiscal year and the estimated ending fund balances for the current fiscal year:

GENERAL FUND	Actual FY 2020	Estimated FY 2021	Budget FY 2022
<b><u>Cash Receipts</u></b>			
Local Taxes	\$ 5,101,472.00	\$ 5,174,821.00	\$ 5,109,300.00
State Shared Taxes	\$ 1,136,127.00	\$ 1,251,514.00	\$ 1,179,500.00
Other Revenue Sources	\$ 386,051.00	\$ 717,299.00	\$ 259,398.00
<b>Total Cash Receipts</b>	<b>\$ 6,623,650.00</b>	<b>\$ 7,143,634.00</b>	<b>\$ 6,548,198.00</b>

**Appropriations**

Judicial	\$ 150,286.00	\$ 143,231.35	\$ 150,917.00
Legislative	\$ 47,405.00	\$ 47,283.00	\$ 68,150.00
Finance & Administration	\$ 661,137.00	\$ 707,653.09	\$ 673,330.00
Insurance	\$ 914,606.00	\$ 957,356.00	\$ 1,041,680.00
Police	\$ 1,797,986.24	\$ 1,820,438.00	\$ 2,105,796.00
Fire	\$ 1,252,230.00	\$ 1,373,540.00	\$ 1,421,054.00
Public Works	\$ 1,285,026.75	\$ 2,094,708.16	\$ 1,586,156.00
Parks	\$ 108,124.00	\$ 105,206.00	\$ 210,005.00
<b>Total Appropriations</b>	<b>\$ 6,216,800.99</b>	<b>\$ 7,249,415.60</b>	<b>\$ 7,257,088.00</b>
<b>Surplus / (Deficit)</b>	<b>\$ 406,849.01</b>	<b>\$ (105,781.60)</b>	<b>\$ (708,890.00)</b>
Beginning Fund Balance	\$ 7,012,157.99	\$ 7,419,007.00	\$ 7,313,225.40
Ending Fund Balance	\$ 7,419,007.00	\$ 7,313,225.40	\$ 6,604,335.40

STATE STREET AID	Actual FY 2020	Estimated FY 2021	Budget FY 2022
<b><u>Cash Receipts</u></b>			
State Highway and Street Fund	\$ 416,111.00	\$ 402,232.00	\$ 400,000.00
Interest Earnings	\$ 19,736.00	\$ 2,029.00	\$ 2,000.00
Insurance Recovery	\$ 4,500.00	\$ 99,378.00	\$ -
<b>Total Cash Receipts</b>	<b>\$ 440,347.00</b>	<b>\$ 503,639.00</b>	<b>\$ 402,000.00</b>
<b><u>Appropriations</u></b>			
Operation	\$ 189,890.00	\$ 826,684.00	\$ 190,150.00
Debt Service	\$ 178,102.00	\$ 176,022.00	\$ 175,177.00
Capital	\$ 14,057.00	\$ -	\$ -
<b>Total Appropriations</b>	<b>\$ 382,049.00</b>	<b>\$ 1,002,706.00</b>	<b>\$ 365,327.00</b>
<b>Surplus / (Deficit)</b>	<b>\$ 58,298.00</b>	<b>\$ (499,067.00)</b>	<b>\$ 36,673.00</b>
Beginning Fund Balance	\$ 1,388,077.00	\$ 1,446,375.00	\$ 947,308.00
Ending Fund Balance	\$ 1,446,375.00	\$ 947,308.00	\$ 983,981.00

SOLID WASTE	Actual FY 2020	Estimated FY 2021	Budget FY 2022
<b><u>Cash Receipts</u></b>			
Sanitation Charges	\$ 931,045.00	\$ 957,152.00	\$ 1,105,000.00
Interest Earnings	\$ 9,906.00	\$ 1,396.00	\$ 1,000.00
Insurance Recovery	\$ -	\$ -	\$ -
Other Revenue Sources	\$ 39,723.00	\$ 32,265.00	\$ -

<b>Total Cash Receipts</b>	\$ 980,674.00	\$ 990,813.00	\$ 1,106,000.00
<b><u>Appropriations</u></b>			
Personnel	\$ 429,792.00	\$ 460,712.00	\$ 542,982.00
Operations	\$ 307,248.00	\$ 303,022.00	\$ 412,505.00
Debt Service	\$ -	\$ -	\$ -
Capital	\$ 157,753.00	\$ 494,446.00	\$ -
<b>Total Appropriations</b>	\$ 894,793.00	\$ 1,258,180.00	\$ 955,487.00
<b>Surplus / (Deficit)</b>	\$ 85,881.00	\$ (267,367.00)	\$ 150,513.00
Beginning Fund Balance	\$ 1,003,095.00	\$ 1,088,976.00	\$ 821,609.00
Ending Fund Balance	\$ 1,088,976.00	\$ 821,609.00	\$ 972,122.00

STORMWATER	Actual FY 2020	Estimated FY 2021	Budget FY 2022
<b><u>Cash Receipts</u></b>			
Property Taxes (Prior Year)	\$ -	\$ -	\$ -
Interest / Penalty	\$ 1,063.00	\$ 1,236.00	\$ 1,100.00
Interest Earnings	\$ 2,497.00	\$ 96.00	\$ 125.00
Stormwater Fees	\$ 265,677.00	\$ 282,217.00	\$ 305,000.00
<b>Total Cash Receipts</b>	\$ 269,237.00	\$ 283,549.00	\$ 306,225.00
<b><u>Appropriations</u></b>			
Personnel	\$ 119,177.00	\$ 124,105.00	\$ 130,893.00
Operations	\$ 105,643.00	\$ 111,742.00	\$ 139,260.00
Capital	\$ 39,881.00	\$ 76,984.00	\$ -
<b>Total Appropriations</b>	\$ 264,701.00	\$ 312,831.00	\$ 270,153.00
<b>Surplus / (Deficit)</b>	\$ 4,536.00	\$ (29,282.00)	\$ 36,072.00
Beginning Fund Balance	\$ 356,392.00	\$ 360,928.00	\$ 331,646.00
Ending Fund Balance	\$ 360,928.00	\$ 331,646.00	\$ 367,718.00

DRUG FUND	Actual FY 2020	Estimated FY 2021	Budget FY 2022
<b><u>Cash Receipts</u></b>			
Impound Fees	\$ -	\$ -	\$ -
Drug Related Fines	\$ 4,231.00	\$ 5,370.00	\$ 4,000.00
DEA Asset Sharing Pmts	\$ 34,155.00	\$ 3,174.00	\$ 10,000.00
Interest Earnings	\$ 999.00	\$ 32.00	\$ 100.00

Sale of Equipment	\$ 10,645.00	\$ 1,500.00	\$ 2,000.00
Insurance Recovery	\$ -	\$ -	\$ -
Drug Seizures	\$ 2,444.00	\$ 3,790.00	\$ 10,000.00
<b>Total Cash Receipts</b>	<b>\$ 52,474.00</b>	<b>\$ 13,866.00</b>	<b>\$ 26,100.00</b>

**Appropriations**

Operations	\$ 23,280.00	\$ 2,152.00	\$ 7,755.00
Capital	\$ 7,440.00	\$ 99,068.00	\$ 12,440.00
<b>Total Appropriations</b>	<b>\$ 30,720.00</b>	<b>\$ 101,220.00</b>	<b>\$ 20,195.00</b>
<b>Surplus / (Deficit)</b>	<b>\$ 21,754.00</b>	<b>\$ (87,354.00)</b>	<b>\$ 5,905.00</b>

Beginning Fund Balance	\$ 96,455.00	\$ 118,209.00	\$ 30,855.00
Ending Fund Balance	\$ 118,209.00	\$ 30,855.00	\$ 36,760.00

IMPOUND FUND	Actual FY 2020	Estimated FY 2021	Budget FY 2022
<b><u>Cash Receipts</u></b>			
Impoundment Charges	\$ -	\$ 445.00	\$ 750.00
Impoundment Fees	\$ -	\$ 850.00	\$ 750.00
Sale of Equipment	\$ 10,439.00	\$ -	\$ 1,500.00
<b>Total Cash Receipts</b>	<b>\$ 10,439.00</b>	<b>\$ 850.00</b>	<b>\$ 2,250.00</b>

**Appropriations**

Operations	\$ 761.00	\$ 1,745.00	\$ 13,000.00
Capital	\$ -	\$ -	\$ -
<b>Total Appropriations</b>	<b>\$ 761.00</b>	<b>\$ 1,745.00</b>	<b>\$ 13,000.00</b>
<b>Surplus / (Deficit)</b>	<b>\$ 9,678.00</b>	<b>\$ (895.00)</b>	<b>\$ (10,750.00)</b>

Beginning Fund Balance	\$ 12,202.00	\$ 21,880.00	\$ 20,985.00
Ending Fund Balance	\$ 21,880.00	\$ 20,985.00	\$ 10,235.00

SEWER FUND	Actual FY 2020	Estimated FY 2021	Budget FY 2022
<b><u>Cash Receipts</u></b>			
Interest Earnings	\$ 439.00	\$ 19.00	\$ 20.00
Rent - Sewer Plant	\$ 8,413.00	\$ 8,413.00	\$ 8,413.00
Contributions from WWTa	\$ 492,204.00	\$ 123,111.00	\$ -
<b>Total Cash Receipts</b>	<b>\$ 501,056.00</b>	<b>\$ 131,543.00</b>	<b>\$ 8,433.00</b>



**Appropriations**

Operations	\$ 516,595.00	\$ 123,111.00	\$ -
<b>Total Appropriations</b>	<b>\$ 516,595.00</b>	<b>\$ 123,111.00</b>	<b>\$ -</b>
<b>Surplus / (Deficit)</b>	<b>\$ (15,539.00)</b>	<b>\$ 8,432.00</b>	<b>\$ 8,433.00</b>
Beginning Fund Balance	\$ 51,185.00	\$ 35,646.00	\$ 44,078.00
Ending Fund Balance	\$ 35,646.00	\$ 44,078.00	\$ 52,511.00

SECTION 2: At the end of the fiscal year 2021; the governing body estimates fund balances or deficits as follows:

General Fund	\$7,313,225.40
State Street Aid Fund	\$ 947,308.00
Solid Waste Fund	\$ 821,609.00
Sewer Fund	\$ 44,078.00
Stormwater Fund	\$ 331,646.00
Drug Fund	\$ 30,855.00
Impound Fund	\$ 20,985.00

SECTION 3: That the governing body herein certifies that the condition of its sinking funds, if applicable, are compliant pursuant to its bond covenants, and recognizes that the municipality has outstanding bonded and other indebtedness as follows:

<b>Debt Principal</b>	<b>Interest Requirements</b>	<b>Debt Authorized and Unissued</b>	<b>Principal Outstanding at June 30</b>
\$ 394,106	\$ 76,951	\$ 785,000	\$ 1,626,000
\$ 163,700	\$ 11,477		\$ 414,400

SECTION 4: During the coming fiscal year (2022) the governing body has pending and planned capital projects with proposed funding as follows:

<b>Proposed Capital Projects</b>	<b>Proposed Amount Financed by Appropriations</b>	<b>Proposed Amount Financed by Debt</b>
\$ 785,000	\$ 98,106	\$ 686,894

SECTION 5: No appropriation listed above may be exceeded without an amendment of the budget ordinance as required by the Municipal Budget Law of 1982 T.C.A. Section 6-56-208 et seq.. In addition, no

appropriation may be made in excess of available funds except to provide for an actual emergency threatening the health, property or lives of the inhabitants of the municipality and declared by a two-thirds (2/3) vote of at least a quorum of the governing body in accord with Section 6-56-205 of the *Tennessee Code Annotated*.

SECTION 6: Money may be transferred from one appropriation to another in the same fund in an amount of up to \$1,000 by the Finance Director, subject to such limitations and procedures as set by Section 6-56-209 of the *Tennessee Code Annotated*. Any resulting transfers shall be reported to the governing body at its next regular meeting and entered into the minutes.

SECTION 7: A detailed financial plan will be attached to this budget and become part of this budget ordinance. In addition, the published operating budget and budgetary comparisons shown by fund with beginning and ending fund balances and the number of full time equivalent employees required by Section 6-56-206, *Tennessee Code Annotated* will be attached.

SECTION 8: There is hereby levied a property tax of \$1.39 per \$100 of assessed value on all real property located in the City.

SECTION 9: The annual operating and capital budget ordinance and supporting documents shall be submitted to the Comptroller of the Treasury or Comptrollers' Designee for approval if the City has debt issued pursuant to Title 9, Chapter 21, of the *Tennessee Code Annotated*, within fifteen (15) days of its adoption. This budget shall not become the official budget for the fiscal year until such budget is approved by the Comptroller of the Treasury or Comptroller's Designee, in accordance with Title 9, Chapter 21 of the *Tennessee Code Annotated* (the "Statutes"). If the Comptroller of the Treasury or Comptroller's Designee determines that the budget does not comply with the Statutes, the Governing Body shall adjust the estimates or make additional tax levies sufficient to comply with the Statutes or as directed by the Comptroller of the Treasury or Comptroller's Designee. If the City does not have such debt outstanding, it will file this annual operating and capital budget ordinance and supporting documents with the Comptroller of the Treasury or the Comptroller's Designee.

SECTION 10: All unencumbered balances of appropriations remaining at the end of the fiscal year shall lapse and revert to the respective fund balances.

SECTION 11: All ordinances or parts of ordinances in conflict with any provision of this ordinance are hereby repealed.

SECTION 12: This ordinance shall take effect July 1, 2021, the public welfare requiring it.

\_\_\_\_\_  
Mayor Hollie Berry (date)

ATTESTED:

\_\_\_\_\_  
City Recorder Tracey Perry (date)

\_\_\_\_\_  
Approved on First Reading

\_\_\_\_\_  
Approval on Second and Final Reading

Approved as to Form:

\_\_\_\_\_  
City Attorney Arnold Stulce, Jr.



**ORDINANCE NO. 21-1193**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO AMEND THE FY 2021 OPERATING BUDGET YEAR END APPROPRIATION OVERAGES**

**WHEREAS**, the City of Red Bank has the FY 2021 Operating Budget appropriated through Ordinance No. 20-1170; and

**WHEREAS**, Section 6 of the Ordinance states that at the end of the fiscal year, the Finance Director is authorized to transfer funds as necessary in order that budgeted appropriations not be exceeded in each Department and that the transfer of funds shall not result in an increase in the total Fiscal Year 2021 Budget; and

**WHEREAS**, it is necessary for the City of Red Bank to request Commission approval to increase the total funding in the FY 2021 Operating Budget for items which have exceeded budgeted appropriations, were not anticipated, or are carry-over items from the previous fiscal year; and

**WHEREAS**, funding is available from various revenue sources which will balance the increase in expenditure appropriations.

**NOW, THEREFORE, BE IT ORDAINED** by the Commission of the City of Red Bank, Tennessee, as follows:

SECTION 1. That the FY 2021 Operating Budget be and is hereby amended to increase the revenue and expenditure appropriations as provided:

**GENERAL FUND  
REVENUES**

Grant Funding	\$1,094,935.00
Fund Balance	\$ 9,307.00
<b>TOTAL REVENUES</b>	<b><u>\$1,104,242.00</u></b>

**EXPENDITURES**

Public Works – TIP Projects	
PIN# 121881	\$ 598,466.00
PIN# 116152	\$ 425,045.00
PIN# 121880	\$ 71,424.00
Fund Balance	\$ 9,307.00
<b>TOTAL EXPENDITURES</b>	<b><u>\$1,104,242.00</u></b>

**STORMWATER FUND**  
**REVENUES**

Fund Balance \$ 10,000.00

**TOTAL REVENUE \$ 10,000.00**

**EXPENDITURES**

Wiser Consulting – Fair St Project \$ 10,000.00

**TOTAL EXPENDITURE \$ 10,000.00**

SECTION 2. This ordinance shall take effect upon the date of its passage upon second and final reading, the welfare of the citizens of the City of Red Bank requiring it.

Tracey L Perry 6/17/21  
City Recorder Tracey Perry (date)

Hollie Berry 6/17/21  
Mayor Hollie Berry (date)

June 1, 2021  
Approved on First Reading

June 15, 2021  
Approved on Second Reading

Approved as to Form:

Arnold Stulce  
City Attorney Arnold Stulce, Jr.

## **ORDINANCE NO. 21-1195**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE TO AMEND THE RED BANK ANIMAL AND FOWL ORDINANCE, ORDINANCE 19-1152, CODIFIED AT RED BANK CITY CODE TITLE 10, CHAPTERS 1 THROUGH 10, INCLUSIVE AND IN PARTICULAR AMENDING ARTICLE VIII OF SAID TITLE 10 OF THE RED BANK CITY CODE.**

**WHEREAS**, the City Commission finds that the present regulatory provisions of and with respect to the keeping, controlling and monitoring of domesticated animals in general, and of and with respect to female chickens in particular should be revised to reflect the general will of the citizens of the City of Red Bank and in order to permit, certain limited numbers of female chickens who lay eggs to be kept in the residential areas of the City of Red Bank under certain restrictions and;

**WHEREAS**, the City Commission finds and believes that it is necessary and appropriate to revise, amend and enact a comprehensive set of rules and regulations of and with respect to the keeping and monitoring of domesticated chickens, with controls provided for the health, safety and welfare of the broader citizenry of the City of Red Bank and to the exclusion of other animals, in general and of and with respect to “roosters” in particular and as other expressly permitted by this ordinance, and to thereby rescind and repeal previously enacted and/or inconsistent ordinances addressing that topic.

**NOW THEREFORE, BE IT ORDAINED** by the City Commission of the City of Red Bank, Tennessee as follows:

SECTION 1. Title 10, Article VIII shall be revised so as to provide that the title of said Article VIII reads as follows:

### **ARTICLE VIII. LARGE ANIMALS; CHICKENS AND OTHER FOWL**

SECTION 2. Revise the title of subsection 10-77, by deleting the same in its present configuration and substituting in its place thereof the following:

Section 10-77. Keeping or possessing livestock, horses, swine, goats or chickens, and similar animals, with exceptions.

SECTION 3. Subsection (a)(1) of section 10-77 shall be amended by adding the words “Except as otherwise expressly provided for herein,” immediately before the first word of subsection (a)(1) and changing the word “It” to “it”.

SECTION 4. Insert a new Subsection (a)(2) immediately following subsection (a)(1) as amended herein, as follows:

(a)(2) Domesticated Chickens Permitted, Limitations and Regulations

(1) The purpose of this section is to provide standards for the keeping of domesticated chickens within the City only where an appropriate permit has been obtained from the City Manager. This section is intended to enable City residents to keep a small number of female chicks on a non-commercial basis and to limit potential adverse impacts on surrounding property owners and neighborhood. No roosters are permitted, no breeding operations or activities are permitted or allowed under any circumstances. It is understood that potential adverse impacts may result to adjoining property owners and the neighborhood from the keeping of domesticated chickens due to the possibility of noise, odor, unsanitary animal living conditions, unsanitary waste storage and/or removal, attraction of predators, rodents, insects, or parasites, and other animals on or leaving the owner's property. This section is intended to create licensing standards and requirements within the City on a trial basis to protect property values of adjoining properties and the neighborhood surrounding the property on which any chickens are kept within the City. No property owner or occupant shall be entitled to a license or keep chickens as otherwise provided for herein in the event same is restated or prohibited by private covenants and restrictions applicable for the property.

(2) No permit shall be issued for any person to keep female chickens within the City unless all of the following required standards are met and complied with by the permittee during any period that a permit is issued by the City Manager:

(a) Property must be zoned R-1 or R-1A and must not have frontage along or contain portions of Stringers Branch.

(b) Chicken coops may only be kept as an accessory use to a residence. They will not be permitted on vacant lots.

(c) Property of not less than one-half (1/2) acre in size as conclusively determined by the Hamilton County Tax Assessor. Properties abutting Stringers Branch shall not be eligible to keep/house/shelter chickens under this Ordinance.

(d) No more than four (4) mature hens shall be allowed in any residential zone property except eight (8) hens will be allowed for those zoned residential properties of two or more acres. No birds shall be allowed in any commercial, office, or multi-family residential district, including duplexes.

(e) No roosters shall be allowed within the City.

(f) There shall be no slaughtering of chickens except indoors in an enclosed building in the City.

(g) Any chickens must be kept in a secure enclosure at all times (not visible from the street) that has been approved by the City Manager or designee. The size of any outside enclosure shall be a minimum of eight (8) square feet per chicken and the outside enclosure shall be set back at least twenty-five (25') from any adjoining side and rear property lines and at least fifty (50') from any stream. The enclosures must provide adequate ventilation and adequate sun and shade and must both be impermeable to rodents, wild birds, and predators, including dogs and cats. The size of any interior/enclosed and roofed enclosure shall provide a minimum of two (2) square feet space for each bird.

(h) There shall be no more than one such enclosure per lot and no such



enclosure shall exceed eight feet (8') in height measured from the highest point on the roof to ground level.

(i) The enclosure shall be approved by the City Manager or designee before any use occurs and shall be designed to provide safe and healthy living conditions for the female chickens while minimizing adverse impacts to other residents in the neighborhood. The enclosure shall be enclosed with wire or screen on all sides and shall have a roof and doors. Access doors shall be shut and secured at night. No enclosures will be allowed in any front or side yard.

(1) Opening windows and vents shall be covered with predator and bird proof wire of less than one inch (1") openings.

(2) The materials used in making the enclosure shall be uniform for each elements of the structure within the City such that the walls are made of the same materials, the roof has the same shingles or other covering, and any windows or openings are constructed using the same materials. The use of scrap, waste board, sheet metal, or similar materials to construct the enclosure is prohibited. The enclosure shall be painted in neutral color, be well-maintained, in good, neat and serviceable conditions.

(3) The enclosure shall be placed in the rear yard in a location where it is uniform and in harmony with other structures on the lot and is not visible from the street.

(4) Mobile chicken coops shall be permitted provided they meet all other requirements of the Ordinance and are only moved within the setback requirements.

(j) Enclosures must be kept in a neat, sanitary condition at all times and must be cleaned and/or moved to a different approved location on the lot on a regular basis to prevent offensive odors.

(k) Chicken feed must be kept in a rodent-proof container as determined by the City Manager or designee and all chickens shall be humanely treated.

(l) Chicken litter, manure and waste must be disposed of in a manner consistent with current best practices. Disposal, compost, or waste bins where chicken-related waste is disposed of shall be stored at least twenty-five (25') from any adjoining side and rear property lines and at least fifty feet (50') from any stream.

(m) Prior to purchasing any chickens pursuant to this section within the City, any person must obtain a permit from the office of the City Manager and an inspection shall be conducted of any proposed facilities for housing chickens in accordance with this section. There shall be a permit fee of Fifty (\$50.00) dollars for any person desiring to keep chickens within the City.

(n) The City Manager or designee shall deny a permit to keep domesticated chickens within the City if the applicant has not complied with all provisions of this section. A permit to keep domesticated chickens may be suspended or revoked by the City Manager or designee at any time, if any provision of the application shall be determined to be false or inaccurate in any material way or if there is determined to be a risk from existing conditions to public health or safety and/or if there is subsequently at any time any violation or failure to comply with the provisions of this Ordinance including without limitation any failure to control odors, noise from chickens emanating from a permitted property

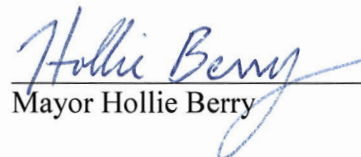
discernable or detectable from the street or any adjoining or nearby residential property and which, in the determination of any such adjoining property owner, unreasonably interferes with such persons' enjoyment of his or her property, after a permit has been issued. Any denial, revocation or suspension of a permit to keep domesticated chickens shall be in writing and shall include notification of the right to file a written appeal to the Administrative Hearing Officer within ten (10) days of the denial, revocation or suspension by the permit holder.

(o) If any such permit shall be revoked and written notice thereof be sent via certified mail to the permit holder at the address shown on the permit, or by hand delivery, the failure of such permit holder to remove the chickens or the enclosure after 10 days, shall *ipso facto*, result in the assessment of a civil penalty in the amount of Fifty (\$50.00) dollars, per day for each day thereafter until the chickens and the enclosure are removed.

To further amend said Section 10-77 by renumbering the currently existing (a)(2) as Subsection "(a)(3)".

SECTION 5. Every section, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase hereof.

SECTION 6. This Ordinance shall take effect from and after the date of its final passage the health, safety and welfare of the Citizens of the City of Red Bank requiring it.

 7/22/21  
Mayor Hollie Berry (date)

 7/22/21  
City Recorder Tracey Perry (date)

July 6, 2021  
Passed on First Reading

July 20, 2021  
Passed on Second and Final Reading

Approved as to form:

 7/22/21  
City Attorney (date)

## ORDINANCE 21-1196

### AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE TO AMEND ORDINANCE NO. 15-1020, THE RED BANK ZONING ORDINANCE, AT SECTION 14-301.01 AND 14-302.01 IN ORDER TO PROVIDE FOR AN ADDITIONAL SPECIFIED PERMITTED USE IN THE R-1 AND THE R-1A RESIDENTIAL ZONES

**WHEREAS**, the City Commission has recently enacted Ordinance No. 21-1195, with respect to the keeping of a limited number of female chickens in the City of Red Bank, under the limited and regulated standards, conditions and licensing provisions and proceedings there provided; and

**WHEREAS**, the City Commission has determined, upon recommendation of the Red Bank Planning Commission and other factors, except properties of two (2) acres or more in size, that the keeping of limited numbers of female chickens should also be limited to the R-1 and R-1A zoned properties which meet all of the standards of Ordinance No. 21-1195.

**NOW THEREFORE, BE IT ORDAINED** by the City Commission of the City of Red Bank, Tennessee as follows:

**SECTION 1.** That Subsection 14-301.01 of the Red Bank Zoning Ordinance be and the same is hereby amended to add a new/additional subsection to the permitted user listed as follows:

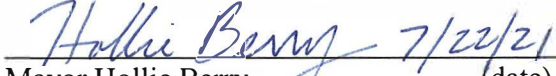
“(1) Keeping limited numbers of female chickens subject to all of the terms, provisions, conditions, requirements and exceptions of Ordinance No. 21-1195 as now existing or hereafter amended.”


**SECTION 2.** That Subsection 14-302.01 of the Red Bank Zoning Ordinance be and the same is hereby amended to add a new/additional subsection to the permitted user listed as follows:

“(1) Keeping limited numbers of female chickens subject to all of the terms, provisions, conditions, requirements and exceptions of Ordinance No. 21-1195 as now existing or hereafter amended.”

**SECTION 3.** Every section, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase hereof.

**SECTION 4.** This Ordinance shall take effect from and after the date of its final passage the health, safety and welfare of the Citizens of the City of Red Bank requiring it.

  
Mayor Hollie Berry 7/22/21 (date)

  
City Recorder Tracey Perry 7/22/21 (date)

July 6, 2021  
Passed on First Reading

July 20, 2021  
Passed on Second and Final Reading

Approved as to form:

*Andrew Stulce* 7/22/21  
City Attorney (date)

**ORDINANCE NO. 21-1197**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO PROVIDE FOR THE GENERAL REVENUE THEREOF FOR THE FISCAL YEAR 2022, REPEALING ORDINANCE NO. 21-1191 AND AMENDING ORDINANCE NO. 21-1192**

WHEREAS, every four (4) years, municipalities in the State of Tennessee are subject to property reappraisals pursuant to the provisions of T.C.A. §67-5-161 et seq.; and

WHEREAS, the statutory process of reappraisal is intended to update the relative fair market values of all real properties in the State of Tennessee and includes provisions which maintain constant calculated tax rates so as to produce no more net revenue in the year of reappraisal than in the year immediately preceding reappraisal UNLESS, the municipality acts affirmatively to increase the tax rate and thereby revenues; and

WHEREAS, the year of 2021 is a reappraisal year for the City of Red Bank; and

WHEREAS, by Ordinance No. 21-1192, the City adopted its budget, with the express provision included that the tax rate would be subject to adjustment per the certified tax rate set by the State of Tennessee; and

WHEREAS, by Ordinance No. 21-1191, the City set its interim tax rate for the 2022 fiscal year at One Dollar and 39/100 (\$1.39) per One Hundred Dollars (\$100.00) of assessed evaluation with the express provision that the rate would be subject to adjustment per the new certified tax rate set by the State of Tennessee; and

WHEREAS, the State of Tennessee and the Assessor of Property for Hamilton County have subsequently determined that the new certified tax rate for the City of Red Bank, based on its previously established property appraisals and assessments for the fiscal year 2022 is \$0.9923; and

WHEREAS, taking into account the need to meet the anticipated revenues required by Ordinance No. 21-1192 and for future anticipated expenditures of the City, it is necessary to set the tax rate at One Dollar and 20/100 (\$1.10) per One Hundred Dollars (\$100.00) of assessed evaluation for the fiscal year 2022; and

WHEREAS, a public hearing, duly noticed and advertised, was held by the City Commission at its regularly scheduled meeting on August 3, 2021 at 6 o'clock pm EDT in the Commission meeting room at 3117 Dayton Boulevard, Red Bank, Tennessee 37415 at which time the matters stated herein and above were presented and discussed, and public comments taken, considered and responded to.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY OF RED BANK, TENNESSEE  
AS FOLLOWS:**

SECTION 1. That there be and there is hereby levied a tax on each One Hundred Dollars (\$100.00) of taxable property in the City of Red Bank, Tennessee, as of January 1, 2021 for the fiscal year July 1, 2021 through June 30, 2022 as follows:

"General Fund Tax"	\$1.10
Total Tax	\$1.10

SECTION 2. The engaging in any vocation, occupation business or business activity, enumerated, described or hereby declared to be a privilege, and each person defined in said Act, shall pay for exercising said privilege to this City the sums authorized and permitted to be charged by municipalities under the provisions of said Act. All of the provisions of said Chapter 387, Public Acts of Tennessee for the year 1971, in so far as they are applicable to, or pertaining to, the levying of taxes, by a municipality, are hereby adopted as fully and completely as though specifically set forth therein.

SECTION 3. This Ordinance shall be known as the General Revenue Ordinance for the fiscal year 2022.

SECTION 4. That all Ordinances or parts of Ordinances in conflict herewith are hereby repealed; more particularly Ordinance No. 21-1191 is repealed and Ordinance No. 21-1192 to the extent is inconsistent herewith, is AMENDED so as to be in conformity with the Ordinance.

SECTION 5. Every section, sentence, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

<u>Tracey L Perry</u> 8/23/21	<u>Hollie Berry</u> 8/23/21
City Recorder Tracey Perry (date)	Mayor Hollie Berry (date)

Approved as to Form

<u>8/3/2021</u>	<u>Arnold Stulce</u>
Passed on first reading (date)	City Attorney, Arnold Stulce, Jr.
<u>8/17/2021</u>	Date: <u>8/24/21</u>
Passed on second and final reading (date)	

**ORDINANCE NO. 21-1198**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO AMEND FY 2022 SOLID WASTE OPERATING BUDGET TO APPROPRIATE FUNDING FOR THE PURCHASE OF ONE NEW 2023 INTERNATIONAL BRUSH TRUCK FOR THE PUBLIC WORKS DEPARTMENT**

**WHEREAS**, the City of Red Bank has a need to purchase one replacement brush truck for use by the Public Works Department; and

**WHEREAS**, the purchase of this truck was planned in the event that the Curb-side Recycle Program was not initiated, and therefore not included in the original budget; and

**WHEREAS**, pursuant to T.C.A §12-3-1205 the City of Red Bank is permitted to purchase the brush truck utilizing a cooperative purchasing agreement through Sourcewell, of which the City of Red Bank is a member of; and

**WHEREAS**, the brush truck will be purchased, pursuant to the authority of TCA §12-3-1205, from Lee-Smith, Inc., which is an authorized distributor for Sourcewell, at a price of \$173,004.94.00, pursuant to a competitively bid contract conducted and administered by Sourcewell; and

**WHEREAS**, the purchase of the 2023 International Brush Truck was duly authorized by the City Commission pursuant to Resolution No. 21-1433 and approved by the City Commission at its regular meeting on September 7, 2021.

**NOW, THEREFORE, BE IT ORDAINED** by the Commission of the City of Red Bank, Tennessee, as follows:

SECTION 1: That the Fiscal Year 2022 Solid Waste Operating Budget be and is hereby amended as provided:

**REVENUES**

**SOLID WASTE**

Fund Balance	<u>\$173,004.94</u>
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<b>TOTAL REVENUES</b>	<b><u>\$173,004.94</u></b>
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**EXPENDITURES**

**SOLID WASTE**

Machinery & Equipment - 940	<u>\$173,004.94</u>
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<b>TOTAL EXPENDITURES</b>	<b><u>\$173,004.94</u></b>
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SECTION 2: This Ordinance shall take effect upon the date of its passage upon second and final reading the welfare of the citizens of the City of Red Bank requiring it.

Hollie Berry 9/23/21  
Mayor Hollie Berry (date)

Tracey L Perry 9/23/21  
City Recorder Tracey Perry (date)

September 7, 2021

Passed on First Reading

September 21, 2021

Passed on Second and Final Reading

Approved as to Form:

Arnold Stulce, Jr.  
City Attorney Arnold Stulce, Jr.



## **ORDINANCE NO. 21-1199**

### **AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, AMENDING TITLE 1, CHAPTER 1, SECTION 1-103, TIME AND PLACE OF REGULAR MEETINGS**

WHEREAS, the Board of Commissioners has held its regular semi-monthly meetings beginning at 6:00 p.m. on the first and third Tuesdays of each month at Red Bank City Hall, which was located at 3117 Dayton Boulevard, for many years; and

WHEREAS, the City has acquired the property located at 3105 Dayton Boulevard and erected there a new City Hall and has occupied same since about July 2019; and

WHEREAS, in order to properly provide public notices and to correct the revised naming of the new City Hall and to delineate the difference between City Hall and the location where City Commission meetings are actually held,

NOW, THEREFORE, BE IT ORDAINED by the Commissioners of the City of Red Bank, Tennessee, as follows:

1. That the provisions of Title 1, Chapter 1, Section 1-103 be amended by deleting it in its entirety and substituting the following in its place and stead:

#### **1-103. TIME AND PLACE OF REGULAR MEETINGS.**

(a) The Board of Commissioners shall hold regular semi-monthly meetings at 6:00 p.m. on the first and third Tuesdays of each month at the City Commission Meeting Room / City Court Room, 3117 Dayton Boulevard, Red Bank, Tennessee.

(b) In the event of unforeseen circumstances, emergency, pandemic, public health concerns, Orders of the Governor of the State of Tennessee and or for the public convenience, and subject to adequate publication and adequate public notice, the Board of Commissioners may direct that the time(s), date(s) and place(s) of such Meetings may be temporarily revised and changed, so long as same shall occur and be held at a location in the City and at a time and place relatively convenient to the public.

(c) In the event of an emergency or other unforeseen circumstance which does not permit for adequate public notice, any such Regular Meeting may be called to order at the date, time and location as specified in subsection (a) above and then and there adjourned, by a majority vote of a

quorum of the Commission then present, that same day to a time and location within the City as otherwise set forth in subsection (b), herein.

2. Every section, sentence, clause, or phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

3. This Ordinance shall take effect from and after the date of its final passage the health, safety and welfare of the citizens of the City of Red Bank requiring it.

Tracey L Perry 9/23/21  
City Recorder Tracey Perry (date)

Hollie Berry 9/23/21  
Mayor Hollie Berry (date)

September 7, 2021  
PASSED ON FIRST READING

September 21, 2021  
PASSED ON SECOND AND  
FINAL READING

APPROVED AS TO FORM:

Arnold Stulce  
City Attorney Arnold Stulce, Jr (date)

**ORDINANCE NO. 21-1200**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO AMEND FISCAL YEAR 2022 OPERATING BUDGET TO INCLUDE A PAY INCREASE FOR PART-TIME FIRE FIGHTERS**

**WHEREAS**, the City of Red Bank, Board of Commissioners approved Ordinance No. 21-1194 setting and fixing the Fiscal Year 2022 Operating Budget; and

**WHEREAS**, the 2022 Operating Budget, as approved, did not include part-time fire fighter pay increases; and

**WHEREAS**, after due consideration of available funding and fiscal impact, the City Commission desires to amend the FY 2022 Operating Budget to include a pay increase, for all part-time fire fighters; and

**WHEREAS**, the pay increase shall be retroactive to July 1, 2021, for all City of Red Bank part-time fire fighters, who are currently employed by the City as of the date of passage of this Ordinance on second and final reading.

**NOW, THEREFORE BE IT ORDAINED** by the Commission of the City of Red Bank Tennessee, as follows:

SECTION 1. That the 2022 Fiscal Year Operating Budget is hereby amended to include funding as provided:

**GENERAL FUND**

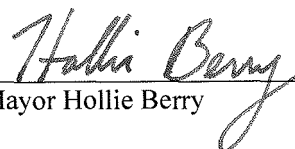
**REVENUE**

Fund Balance	<u>\$15,430.60</u>
<b>TOTAL REVENUE</b>	<b><u>\$15,430.60</u></b>

Fire Department	
<i>Part-Time Salary</i>	<i>\$14,371.21</i>
<i>FICA</i>	<i>\$1,059.39</i>

<b>TOTAL EXPENDITURES</b>	<b><u>\$15,430.60</u></b>
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SECTION 2. This Ordinance shall take effect upon the date of its passage upon second and final reading, the welfare of the citizens of the City of Red Bank requiring it.

  
\_\_\_\_\_  
Mayor Hollie Berry (date) 10/14/21

  
\_\_\_\_\_  
City Recorder Tracey Perry (date) 10/14/21

September 21, 2021  
PASSED ON FIRST READING

October 5, 2021  
PASSED ON SECOND AND FINAL READING

APPROVED AS TO FORM:

  
City Attorney Arnold Stulce, Jr.

**ORDINANCE NO. 21-1201**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO AMEND FISCAL YEAR 2022 OPERATING BUDGET TO INCLUDE COSTS ASSOCIATED WITH NEW CITY MANAGER SEARCH AND IMPLEMENTATION OF PLANNING COMMISSION PAY OF \$300 ANNUALLY FOR EACH MEMBER**

**WHEREAS**, the City of Red Bank, Board of Commissioners approved Ordinance No. 21-1194 setting and fixing the Fiscal Year 2022 Operating Budget; and

**WHEREAS**, the 2022 Operating Budget, as approved, did not include costs associated with the new City Manager search or the implementation of Planning Commission pay; and

**WHEREAS**, after due consideration of available funding and fiscal impact, the City Commission desires to amend the FY 2022 Operating Budget to include the costs associated with the new City Manager search and implementation of Planning Commission pay; and

**WHEREAS**, the cost associated with the new City Manager search, including hotel, airfare, car rental, mileage reimbursement, per diem and incidentals totaled \$5,308.84; and

**WHEREAS**, the implementation of the Planning Commission pay of \$300.00 each, annually, paid to each member monthly, in the amount of \$25.00 each, for a total of \$1500.00, shall be retroactive to July 1, 2021, for all City of Red Bank Planning Commission members, who are currently serving on the Red Bank Planning Commission as of the date of passage of this Ordinance on second and final reading.

**NOW, THEREFORE BE IT ORDAINED** by the Commission of the City of Red Bank Tennessee, as follows:

SECTION 1. That the 2022 Fiscal Year Operating Budget is hereby amended to include funding as provided:

**GENERAL FUND**

**REVENUE**

**LEGISLATIVE**

Fund Balance	<u>\$ 6,808.84</u>
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<b>TOTAL REVENUES</b>	<b>\$ <u>6,808.84</u></b>
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**EXPENDITURES**

**LEGISLATIVE**

<i>Supplies</i>	<i>\$ 169.85</i>
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<i>Travel</i>	<i>\$ 5,138.99</i>
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<i>Salaries</i>	<i>\$1,500.00</i>
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<b>TOTAL EXPENDITURES</b>	<b><u>\$6,808.84</u></b>
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SECTION 2. This Ordinance shall take effect upon the date of its passage upon second and final reading, the welfare of the citizens of the City of Red Bank requiring it.

  
Mayor Hollie Berry

  
City Recorder Tracey Perry

October 5, 2021  
PASSED ON FIRST READING

October 19, 2021  
PASSED ON SECOND AND FINAL READING

APPROVED AS TO FORM:

  
City Attorney Arnold Stulce, Jr.

## **ORDINANCE 21-1202**

### **AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE TO AMEND THE RED BANK BEER ORDINANCE(S) CODIFIED AT TITLE 8, CHAPTER 2 SECTIONS 8-201 TO END, INCLUSIVE AND TO COMPREHENSIVELY REVISE AND SIMPLIFY THE SAME**

**WHEREAS**, the City Commission has undertaken extensive review, study and examination of the City's regulations and Ordinances with respect to the manufacture, sale and distribution of beer in the City of Red Bank; and

**WHEREAS**, multiple members of the City Commission have solicited and received substantive and valuable input from citizens of Red Bank with respect to the topic; and

**WHEREAS**, the City Commission has extensively and comprehensively studied, discussed and exchanged ideas and opinions and conclusions based on the above referenced actions and have also comparatively analyzed the beer regulations/ordinances format of other and nearby municipalities of comparable size; and

**WHEREAS**, a majority of City Commissioners have concluded that significant revisions of and to the City regulations and ordinances with respect to the manufacture, provision and sale of beer are desirable, necessary and appropriate for the betterment of the City.

**NOW THEREFORE**, be it ordained by the City Commission of the City of Red Bank as follows:

#### Section 1:

Chapter 2. Beer of Title 8, Chapter 2, Sections 8-201-241, inclusive, of the Red Bank City Code is deleted in its entirety and there is substituted in its place and stead the following:

8-201. Beer board established. There is hereby established a beer board to be composed of the board of commissioners. The mayor shall be the chair of the beer board.

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings at the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chair provided the chair gives reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place located at a City owned or other public facility in the City of Red Bank.

8-203. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain

at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board.

8-204. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote.

8-205. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter.

8-206. "Beer" defined. The term "beer" as used in this chapter shall mean beer, ale or other malt beverages, or any other beverages having an alcoholic content of not more than eight percent (8%) by weight, except wine as defined in Tennessee Code Annotated, § 57-5-101; provided, however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other non-beverage ingredients containing alcohol.

8-207. Permit required for engaging in the manufacture, sale and/or distribution of beer. (a) It shall be unlawful for any person or entity to sell, store for sale, distribute for sale, or manufacture or brew beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board through the City Manager shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Each applicant must be a person of good moral character and must certify that such persons has read and is familiar with and agrees to abide by the provisions of this chapter.

(b) It shall be unlawful for any person not holding a permit for the manufacture, brewing or sale of beer or other beverages of like alcoholic content to manufacture, distribute, sell or offer for sale beer or other beverages of like alcoholic content at any time within the city. Permits, once issued, are not transferable to any other person, corporation or entity and are specifically limited to the address/premises for which same is issued.

(c) It is not the intent of this Ordinance to require a permit or license to be obtained by any person who brews beer in such person's home or residence solely for personal and/ or family consumption so long as such person does not engage in any sense or under any set of circumstances in the sale, manufacture, storage or distribution of beer for monetary or other non-gratuitous exchange.

8-208. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax each successive January 1 to the City of Red Bank,



Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date.

8-209. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted so as to authorize sales only for off premises consumption. A single permit may be issued for on premise and off premise consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his, her or its permit. It shall likewise be unlawful for the Permittee not to comply with any and all express restrictions or conditions in any such permit.

8-210. Permits. Permits issued by the beer board shall consist of two (2) classes: on premises consumption and off premises consumption:

(1) On premises permit. An on-premises permit shall be issued for the consumption of beer on the Permitted/Licensed premises. There are six (6) classifications of on premises consumption permits:

(a) Restaurant Permit: (1) A restaurant permit/license authorizes the sale of beer for on premises consumption in an establishment where more than fifty (50%) percent or more of the gross receipts of such establishment is derived from the sale of food, or items other than alcoholic beverages and/or "Beer" as defined elsewhere in this Chapter and code.

(2) A restaurant license shall authorize the licensee to sell alcoholic beverages, in conjunction with the sale and service of food or "Beer" only, in areas or other designated areas of such restaurant(s) including without limitation outdoor service areas as provided for herein.

(3) Outdoor dining areas must be contiguous to and attached to the licensed building premises and shall have only one means of ingress and egress for customers into and through the licensed building premises unless by special exception permit issued by the Red Bank City Commission. Outdoor service areas shall and must be enclosed by fencing or railing not less than three (3') feet in height and may, but shall not be required to, follow the screening requirements of Chapter 9, Section 14-901 of the City of Red Bank Zoning Ordinance. Such outdoor dining areas that serve beer must meet all minimum distance requirements of the Red Bank Liquor Ordinance, if any, and must not encroach upon any city or public right-of-way, street or sidewalk and must be so situated so as not to, in the judgment of the Red Bank City Manager, or designee, impede any sight line distance policies or best practices with respect to nearby roadways. Such outdoor dining areas shall be under the sole and exclusive control of the licensee. Such outdoor dining areas shall necessarily be located / set back not less than ten feet (10 ft.) from the paved/travelled portion of any public roadway.

(4) Outdoor dining areas may allow live singing, live music or other entertainment or performance and/or recorded music, singing, television or other entertainment media as long as

the same shall not be audible off of the licensed premises to the unaided human ear in either any enclosed vehicle or inside any adjacent or nearby enclosed building premises and/or within any residence with windows and doors closed located in any nearby or adjacent residential zone. No entertainment media of any sort, audible off of the licensed premises regardless of distance shall be allowable between the hours of 11:00 p.m. and 8:00 a.m.

(b) Tavern Permit: (1) A tavern permit/license authorizes the sale of alcoholic beverages for on premises consumption in an establishment where less than fifty (50%) percent of the gross receipts of such establishment is derived from the sale of food, or items other than alcoholic beverages and/or "Beer" as defined elsewhere in this Chapter and code.

(2) A tavern license shall authorize the licensee to sell alcoholic beverages, in conjunction with the sale and service of food only, in areas or other designated areas of such tavern(s) including without limitation outdoor service areas as provided for herein. "Food" shall include but not be limited to snack foods, "chips" and pre-packaged for consumption foods.

(3) Outdoor service areas must be contiguous to and attached to the licensed building premises and shall have only one means of ingress and egress for customers into and through the licensed building premises unless by special exception permit issued by the Red Bank City Commission. Outdoor service areas shall and must be enclosed by fencing or railing not less than three (3') feet in height and may, but shall not be required to, follow the screening requirements of Chapter 9, Section 14-901 of the City of Red Bank Zoning Ordinance. Such outdoor service areas that serve beer must meet all minimum distance requirements of the Red Bank Liquor Ordinance, if any, and must not encroach upon any city or public right-of-way, street or sidewalk and must be so situated so as not to, in the judgment of the Red Bank City Manager, or designee, impede any sight line distance policies or best practices with respect to nearby roadways. Such outdoor service areas shall be under the sole and exclusive control of the licensee. Such outdoor service areas shall necessarily be located / set back not less than ten feet (10 ft.) from the paved/travelled portion of any public roadway.

(4) Outdoor service areas may allow live singing, live music or recorded music, singing, television or other entertainment media as long as the same shall not be audible off of the licensed premises to the unaided human ear in either any enclosed vehicle or inside any adjacent or nearby enclosed building premises and/or within any residence with windows and doors closed located in any nearby or adjacent residential zone. No entertainment media of any sort, audible off of the licensed premises regardless of distance shall be allowable between the hours of 11:00 p.m. and 8:00 a.m.

(c) Craft Brewers Permit. A craft brewer's sampling license and permit may issue to a licensed manufacturer of beer to permit samples of the beer(s) brewed on the

licensed premises to be consumed on premises for tasting as part of a marketing effort for such beer(s) subject to the following conditions and restrictions:

- (1) The consumer/person to whom the sample is provided must be of legal age to purchase beer;
- (2) Samples are limited to a maximum of ten (10) ounces per person per day;
- (3) Samples shall be provided inside the building premises and/or in an enclosed courtyard setting;
- (4) All consumption and/or sampling under a craft brewer's sampling license which occurs out of doors shall be required to adhere to the same standard as set forth in § 8-210(A)(3) and (4) of this Ordinance.
- (5) All other terms, provisions and conditions of title 8, chapter 2, et seq. of the Red Bank City Code that are not expressly contradictory to the terms hereof and any statutes, rules or regulations imposed or enacted by the State of Tennessee and any of its applicable subdivisions shall remain in full force and effect;
- (6) No "free" samples shall be given except in the circumstance of a credit against the price of on-side brewed product actually contemporaneously purchased, by the permit holder.

(d) Growler Permit. Any permittee holding either a restaurant, tavern or craft brewer's sampling license may also engage in the sale of beer, as otherwise defined herein, for off-premises consumption in the context of and with the utilization of a carry-out container commonly referred to as a "growler," defined for these purposes as a glass, stainless steel, or ceramic reusable container with a screw on cap or a hinged porcelain gasket cap the size of which containers shall not be less than thirty-two U.S. fluid ounces (32 oz.) and the size of which shall not exceed sixty-four U.S. fluid ounces (64 oz.). Beer sold in growler(s) may not be consumed on the premises where sold.

(1) Vendors shall utilize on-premises sanitized growlers, as defined herein, with a sealed cover or plastic shrink wrapped cover over the screw on cap or hinged gasket porcelain stopper for all growler sales. Refilling a customer's growler without the growler being first sterilized and sanitized by the licensee is not permitted.

(2) Any licensee possessing either a restaurant, tavern or craft brewer's sampling license on October 7, 2014, may apply for a growler permit endorsement at city hall without charge. For all future licensees for restaurant, tavern or craft brewer's sampling licenses, permission to engage in growler sales shall be an integrated part of such restaurant, tavern or craft brewer's sampling license(s).

(e) Special Event Permits. (a)(i) The beer board is authorized to issue special event permits to bona fide charitable, non-profit or political organizations or to private parties, proprietorship type businesses, corporations or LLCs for private, occasional or social events for Special Events, provided that such special event permits shall be subject

to all other requirements of this chapter and of the Red Bank City Code governing the sale of beer. The beer board is authorized, but is not required, to include provision in any such permit/permitting process limited outside/out of door sales and consumption, subject to reasonable time, space, and public security requirements as the beer board may impose in such Special Event Permit from time to time and based on recommendation of the City Manager and the Red Bank Chief of Police or their respective designees. Allowable places may include, but need not necessarily be limited to City of Red Bank parks and/or other facilities if space is reserved therein under then existing practices and policies of the City of Red Bank with respect to such reservations.

(ii) No private party, corporation or LLC that is not a bona fide charitable, or non-profit organization as defined under this section, shall engage in the sale of beer with a special event permit but shall be eligible to use such permit to provide beer for on site social consumption free of charge to its private event invitees and/or provide beer as a part of its special or occasional private social event(s) license. The provision of the subsection does not prevent a Special Event Permit holder from charging an admission fee to or for any such Special Event.

(iii) No more than on one day on four occasions within any running 12 month period, it shall be permissible for a business entity, in the context of a grand opening, re-opening business or other marketing promotion to distribute beer free of charge, inside the business premises, to patrons, customers, intended customers or invitees without a special events license provided same shall only be permitted only between the hours of 11:00 a.m. and 10:00 p.m. on such allowable but limited day and time intervals and open at least seven (7) days prior written notice to the City Manager.

(b) The special event beer permit application fee is set at one hundred dollars (\$100.00), which fee is non-refundable. In each such application, each permit applicant shall specify measures to be taken by applicant/permittee to prohibit purchase or consumption by underage individuals and the beer board shall be specifically entitled to impose conditions as the contemplated special event may merit from time to time with respect to the issuance of the special event permit with respect thereto. Such measures shall always include at least:

(i) A visible physical separation barrier outside of which no beer may not be distributed, consumed or sold, and

(ii) Each person to whom beer is provided shall wear a visible badge(s), bracelets, pins, etc. which signify that the wearer has been prescreened by the permit holder as to the bearer's age.

(c) The special event permit shall not be issued for longer than one forty-eight (48) hour period unless otherwise specified, subject to the limitations on the hours of sale (distribution for consumption) imposed by this Ordinance. The application for the special event permit shall state whether the applicant is a charitable, non-profit or political

organization or a private party, corporation or LLC holding a special event, include documents showing evidence of the type of organization, and state the location of the premises upon which alcoholic beverages shall be served and the purpose of the request of the license.

(i) Any violations of the hours of operation/distribution and/or the noise and sound restrictions found elsewhere in this Ordinance may result in immediate revocation of the Special Events Permit.

(d) For purposes of this section:

(i) Bona fide charitable or non-profit organization means any corporation which has been recognized as exempt from federal taxes under section 501(c) of the Internal Revenue Code and/or as a non-profit Tennessee corporation in good standing with the Secretary of State of Tennessee as of the date of the application and issuance of the permit.

(ii) Bona fide political organization means any political campaign committee as defined in Tennessee Code Annotated § 2-10-101(a) or any political party as defined in Tennessee Code Annotated § 2-13-101.

(e) The beer board may impose such additional requirements and conditions upon the special events permittee and permit under such as it shall deem necessary for the health, safety and security of the citizens of the City of Red Bank. No person, organization, political organization, private party, corporation or LLC shall be eligible to receive more than four (4) special event permits in any running twelve (12) month period.

(f) No special event permit holder possessing a special event permit shall purchase, for sale or distribution, beer from any source other than a licensee as provided pursuant to state law.

(g) Failure of the special event permittee to abide by and adhere to the conditions of the permit and all laws of the State of Tennessee and the City of Red Bank will result in a denial of a special event beer permit for the sale or distribution of beer for a period of one (1) year as well as the imposition of any and all other applicable fines and/or penalties.

(h) Nothing contained herein shall be construed so as to limit the imposition of any criminal penalties which might otherwise apply by reason of any violation of any ordinance of the City of Red Bank and/or laws of the State of Tennessee, except that distribution, sale or consumption in compliance with the terms and subject to the limitations of any such permit as herein provided and within the defined and confined and designed physical space shall not be grounds for citation or prosecution by the City of Red Bank for violation of any open container or public consumption ordinance or statute.

(f) Catering Permits.

Caterer means a business engaged in offering food and beverage service for a fee at various locations, which (1) operates a permanent catering hall on an exclusive basis; (2) has a complete and adequate commercial kitchen facility; and (3) is licensed as a caterer by the Tennessee Alcoholic Beverage Commission Tennessee Department of Health and by either the City of Red Bank or the City of Chattanooga.

A caterer licensed to operate in either the City of Red Bank or the City of Chattanooga shall obtain the necessary beer permit as contemplated by this Ordinance.

In addition to the other requirements of this Ordinance:

(1) A beer permit shall not be issued to a caterer that does not hold a valid caterer's license from the State of Tennessee's Alcoholic Beverage Commission for sale and consumption of wine and other alcoholic beverages pursuant to Chapter 4, Title 57 of the Tennessee Code Annotated. Should the holder of a caterer's permit cease to hold a valid caterer's license from the state Alcoholic Beverage Commission, such caterer's beer permit shall be automatically deemed revoked by the Beer Board.

(2) A beer permit shall not be issued to a caterer that does not hold a valid retailer's "on-sale" permit for its permanent catering hall located in either the City of Red Bank or the City of Chattanooga issued pursuant to the provisions and requirements of this subsection.

(3) All caterers with a beer permit shall give advance notice to the Beer Board and to the Red Bank Police Department of each site or locations where beer will be, provided, sold and consumed. Such notice shall include, but not be limited to, the date, time, and location of the event five (5) days prior to the date of the scheduled event.

(4) A beer permit issued to a caterer shall not be valid for the sale and consumption of beer on any premises for which a vendor's on-premises consumption or off-premises consumption permit has been revoked within the past twelve month period, nor shall a caterer use a beer permit for the sale and consumption of beer on any premises owned or leased by a person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the establishment that has had a vendor's on-premises consumption or off-premises consumption permit revoked within the past twelve (12) month period.

(5) A caterer's permit is valid for each catering site, provided that the notice requirements of this Ordinance above are met.

(2) Off premises permits. An off-premises permit may be issued for the sale of beer for consumption of beer off the premises only.

(a) Off premises consumption permit holders may also be eligible for issuance of a Growler Permit as provided hereinabove. Unless also eligible for and subject to the



issuance of a Craft Brewer's Permit as provided hereinabove, no sampling or tasting of beer sold in Growlers shall be permitted by the holder of an off premises permit with only a Growler endorsement.

8-211. Sale of beer for both on premises and off premises consumption. A single permit may be issued to sell beer for both on premises and off premises consumption at the same location.

8-212. No permit shall issue for the sale of beer for any premises operating or classified as an Adult Oriented Entertainment Establishment as defined by the Red Bank Zoning Ordinance and which is located within five hundred feet (500') of any church, school, place of worship, park or day care center.

8-213. Denial of Permit Applications. No permit required by this ordinance shall be issued where the operation of the business conducted thereunder may reasonably, within judgment if the City Manager and/or Chief of Police cause congestion of traffic, interfere with schools, churches, parks or other places of public assembly, or otherwise interfere with the public health, safety and morals, or where this article or any other law would be violated, including, but not limited to, the zoning laws provided further no permit required by this division shall be issued where a person, firm, corporation, joint stock company, LLC, partnership, syndicate, or association having at least a five percent (5%) ownership interest in the applicant has been convicted of any violation of the laws against possession, sale, manufacture or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years, or has had a permit under this chapter revoked within the preceding twelve (12) months/to one (1) year or is currently under suspension. The Board, in its discretion, may determine that issuance of a license or permit before the expiration of one (1) year from the date of revocation becomes final is appropriate, if the individual applying for such issuance is not the original holder of the license or any family member who could inherit from such individual under the statute of intestate succession.

8-214. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.

(A) Revocation of Permit; Penalty. It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

(1) Sell or provide gratuitously or allow any person to provide beer to any person under twenty-one (21) years of age or to allow any such person to consume beer on the permitted premises.

(2) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.

(3) Allow any person under twenty-one (21) years of age to loiter in or about the permitted place of business.

(4) Make or allow any sale of beer to any person reasonably appearing to be under the influence of alcohol or any drug or other substance and or any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.

(5) Allow persons apparently under the influence of any alcoholic beverages or drug or narcotic or any drunk persons to loiter about his premises.

(6) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than eight percent (8 %) by weight unless the vendor shall also hold a separate permit/license from the State of Tennessee to sell alcoholic beverages "by the drink".

(7) Fail to IMMEDIATELY report any fights or disorders on the permitted premises to the Red Bank Police Department.

(8) Fail to provide and maintain adequate sanitary toilet facilities as required by building occupancy codes.

(9) Operate a disorderly place

(10) Allow fighting or boisterous or disorderly conduct on the premises

(11) Employ any person who has been convicted by final judgment of a court of competent jurisdiction of any felony or of a crime involving moral turpitude;

(12) Allow minors to congregate about the premises

(13) Sell or transfer the equipment or assets of the business authorized by the applicable permit to another person

(14) Make a false statement of a material fact in any application or notice to the board

(15) Sell, furnish, dispense or allow to be used or consumed, any beer or other alcoholic beverages to any person under the age of twenty-one (21) years

(16) Deny access to any portion of the premises at which the sale of beer is permitted, whether or not that portion of the premises is used for the sale of beer, to any policeman or inspector or authorized designee of the Beer Board

(17) Allow a minor, as such term is defined in Tennessee Code Annotated, § 1-3-105(29), in his employ to sell beer

(18) Allow any violation of any provision of this article to occur on the licensed premises



(19) Allow any violation of the rules and regulations of the Hamilton County Health Department

(20) Consume or permit any employee to consume any beer or any alcoholic beverage while on the premises, or to be intoxicated while on the premises

(21) Allow litter or debris to accumulate in or around the premises, including the sidewalks and streets adjacent thereto; and/or fails to provide and maintain adequate solid waste containers

(22) Permit to be performed, offer to perform, perform or allow customers, employees or entertainers or any person to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia on the premises.

(23) Encourage or permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus or genitals of any other person.

(24) Permit any licensee operator, entertainer, employee, or customer to be unclothed or in such attire, costume, or clothing so as to expose to view any portion of the sex organs, areola or nipple of breasts or buttocks of said operator, entertainer, or employee or customer with the intent to arouse or gratify the sexual desires of the operator, entertainer, employee or customer.

(25) Permit any entertainer, employee or customer to have any physical contact with any other entertainer, employee or customer on the premises during any performance and all performances shall only occur upon a stage at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest entertainer, employee and/or customer.

(26) Permit any display of any films or pictures, videos or other media of any kind depicting any live performance of acts which are prohibited by subparagraphs (22) through (26) of this section.

(B) In addition to other grounds of revocation as otherwise provided in this Ordinance, the violation of any of the provisions of this chapter or this section or any false statement by any applicant on his application for a license and permit shall, in addition to any other penalty provided by law, constitute sufficient grounds for the revocation of the license and permit issued to such permit holder, and the beer board may also, in its discretion, revoke a license and permit for due cause not specified herein.

(C) Penalty. In addition to the provisions of § 8-215 and 8-216, infra, any violation of this subsection, each instance constituting a separate violation, shall be punishable by a fine of not more than fifty dollars (\$50.00). Violation of any of the provisions of this subsection 8-214(a) this article shall also constitute grounds for the revocation of the license, or for a suspension in the discretion of the beer board and otherwise provided in this Ordinance.

8-215. Revocation or suspension of beer permits. The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the police chief or by any member of the beer board. Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off premises consumption. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period.

8-216. Civil penalty in lieu of revocation or suspension. (1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," Tennessee Code Annotated, § 57-5-601, et seq.

(2) Penalty, revocation or suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense. The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose.

8-217. Loss of clerk's certification for sale to minor. If the beer board determines that a clerk of an off premises beer permit holder certified under Tennessee Code Annotated, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination.

8-218. Hours of beer sales allowed. (1) For on-premises consumption, beer as defined herein may not be sold on the licensed premises between the hours of 1:00 A.M. and 10:00 A.M. every day of the week. All serving glasses and/or containers must be cleared from tables from the possession of customers at the end of serving hours.

(2) For off-premises consumption, the sale of beer as defined herein shall be permitted between the hours of 10:00 A.M. and 2:00 A.M. every day of the week.

8-219. Violations. Except as provided in § 8-215, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each instance of violation shall be punishable separately with cumulatively and each day a violation shall be allowed to continue shall likewise constitute a separate offense.

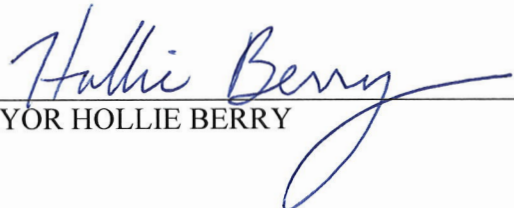
Section 2:

**BE IT FURTHER ORDAINED**, that every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

Section 3:

**FINALLY, BE IT FURTHER ORDAINED** that this ordinance shall take effect from and after the date of its final passage, subject to the time limited provisions set forth hereinabove and until such time as the same shall be further modified, superseded and/or overridden by the City Commission of the City of Red Bank, Tennessee, all being required by the public welfare of the City of Red Bank, Tennessee and shall be forthwith "added" to the printed and electronically preserved and maintained versions of the Red Bank Personnel Policies Manual.

  
CITY RECORDER TRACEY PERRY

  
MAYOR HOLLIE BERRY

October 19, 2021  
PASSED ON FIRST READING

November 2, 2021  
PASSED ON SECOND AND FINAL READING

APPROVED AS TO FORM:

  
CITY ATTORNEY

**ORDINANCE NO. 21-1203**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO AMEND FISCAL YEAR 2022 OPERATING BUDGET TO PROVIDE FOR AN INCREASE IN THE AMOUNT OF TERM LIFE INSURANCE PROVIDED AS A BENEFIT FOR FULL-TIME EMPLOYEES**

**WHEREAS**, the City of Red Bank, Board of Commissioners approved Ordinance No. 21-1194 setting and fixing the Fiscal Year 2022 Operating Budget; and

**WHEREAS**, the City of Red Bank currently offers City funded Life Insurance Policies in the amount of \$10,000.00 to all full-time employees; and

**WHEREAS**, the City of Red Bank's current insurance carrier, The Guardian Life Insurance Company of America, has responded to a Request for Proposal to increase Life Insurance coverage for full-time employees from \$10,000.00 with a total cost per year of \$3,617.28, i.e. \$50.94 per employee, to \$50,000.00 with a total cost per year of \$16,097.28, i.e. \$226.72 per employee; and

**WHEREAS**, the City of Red Bank wishes to offer City funded Term Life Insurance Policies in the amount of \$50,000.00 to all full-time employees; and

**WHEREAS**, the 2022 Operating Budget, as approved, did not include full-time employee life insurance increases; and

**WHEREAS**, after due consideration of available funding and fiscal impact, the City Commission desires to amend the FY 2022 Operating Budget to include expenditure of funds sufficient to provide all full-time employees with a Term Life Insurance Policy with death benefit of \$50,000.00; and

**WHEREAS**, the increased benefit shall be effective for all City of Red Bank full-time employees who are currently employed by the City as of the date of passage of this Ordinance on second and final reading.

**NOW, THEREFORE BE IT ORDAINED** by the Commission of the City of Red Bank Tennessee, as follows:

SECTION 1. That the 2022 Fiscal Year Operating Budget is hereby amended to include funding as provided:

**GENERAL FUND**

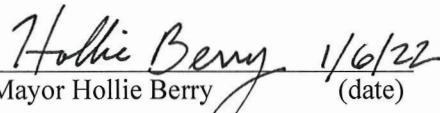
**REVENUE**

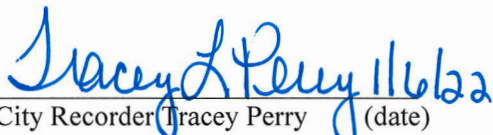
Fund Balance	<u>\$12,480.00</u>
<b>TOTAL REVENUE</b>	<b><u>\$12,480.00</u></b>

**EXPENDITURES**

General Fund 110-41590-145	\$11,722.57
Storm Water 413-52100-145	\$ 351.56
Solid Waste 131-43230-145	\$ 1,230.09
Recycling 131-43280-145	\$ 175.78
<b>TOTAL EXPENDITURES</b>	<b><u>\$12,480.00</u></b>

SECTION 2. This Ordinance shall take effect upon the date of its passage upon second and final reading and the City Manager shall take such actions as are necessary and appropriate to carry out the intent of this Ordinance and to contract with The Guardian Life Insurance Company of America to implement the increase in the amount of the Term Life Insurance coverage for all full-time employees referenced herein, the welfare of the citizens of the City of Red Bank requiring it.

  
Mayor Hollie Berry 1/6/22  
(date)

  
City Recorder Tracey Perry (date)

December 21, 2021  
PASSED ON FIRST READING

January 4, 2022  
PASSED ON SECOND AND FINAL READING

APPROVED AS TO FORM:

  
City Attorney Arnold Stulce, Jr.

**ORDINANCE NO. 22-1204**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO  
AMEND AND UPDATE AND REVISE TITLE 12, CHAPTER 3,  
SECTIONS 301 ET. SEQ. OF THE RED BANK CITY CODE WITH  
RESPECT TO THE ADOPTION AND ENFORCEMENT OF THE  
ELECTRICAL CODE**

WHEREAS, it is necessary from time to time for the current revisions of the national electrical code and other updates and amendments to the Electrical Code of the City of Red Bank to be reviewed, enacted and adopted;

WHEREAS, certain practical aspects of the Electrical Code as currently enacted are in need of review, amendment, update and modification;

WHEREAS, the Hamilton County Electrical Inspector, who has been the designated "Electrical Inspector" for the City of Red Bank for a number of years has determined and advised the City of Red Bank that person/office is no longer willing to perform the function of official Electrical Inspector for the City of Red Bank; and

WHEREAS, since the 2011 edition of The National Electrical Code, has been adopted by the City, additional editions have been issued in 2017 and in 2020, it becomes necessary and appropriate for the benefit for the citizens of the City of Red Bank to adopt the most recent version of the National Electrical Code, i.e. the 2020 edition, together with all amendments and appendices therein provided, enacted, and or adopted;

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES, BE IT ORDAINED by the City Commission of the City of Red Bank, Tennessee, as follows:

SECTION 1. Title 12, Chapter 3, Section 12-301 **Electrical Code Adopted** is amended to delete the following words and phrases: "The National Electrical Code, 2011 edition" and there is substituted in its place instead the following:

"The National Electrical Code, 2020 edition" in its place instead

BE IT FURTHER ORDAINED that the following paragraph is added to say Section 12-301:

In addition, and in order to provide for additional efficiency and interjurisdictional consistency, having confirmed that Hamilton County has also adopted and or is in the process of adopting The National Electrical Code 2020 edition, as amended and appended, the City of Red Bank hereby prospectively adopts and incorporates by reference any additional amendments and or revisions to The National Electrical Code as shall be hereafter periodically adopted and or accepted and or enacted and or enforced by Hamilton County, Tennessee as the Electrical Code



for the City of Red Bank, and such amendments, and adoptions by Hamilton County shall, ipso facto, be construed so as to amend the provisions of this Ordinance.

SECTION 2. Title 12, Chapter 3, Section 12-305 **Chief Electrical Inspector** is amended by deleting the same in its entirety and substituting in its place instead the following:

12-305 **Chief Electrical Inspector**. The City Manager shall be responsible for selecting, retaining and designating a qualified Chief Electrical Inspector for the City of Red Bank, which person shall be an electrical inspector currently registered with and licensed by the State of Tennessee and who shall also possess such other qualifications and experience as the City Manager shall determine to be necessary or appropriate from time to time. In the discretion of the City Manager, the duly designated Hamilton County Electrical Inspector, or the duly designated Electrical Inspector(s) of any other municipality in Hamilton County, as long as such person(s) otherwise meet(s) the minimum standards hereinabove set forth, may be designated to perform inspection duties and activities for the City of Red Bank under the provisions of this Chapter as needed and from time to time. The City Manager is hereby expressly authorized to enter such governmental agreements as may be necessary or convenient to effectuate this discretionary function. The Chief Electrical Inspector for the City of Red Bank may be, in the discretion of the City Manager, a full or part time employee or an independent contractor for such electrical inspection duties as the City Manager may find necessary, convenient, or appropriate from time to time.

The Chief Electrical Inspector is hereby authorized, empowered and directed to regulate and determine the placement of electrical lights, electrical wires, power wires into and on any building and or structures and or facilities in the city so as prevent fires, accidents or injuries to persons or properties. The Inspector shall cause all electrical appliances, equipment or apparatus to be so placed, constructed and guarded as not to cause fires, or accidents or endanger life or property, all in compliance with the provisions of the then currently adopted Electrical Code for the City of Red Bank. Whenever in the judgment of said Chief Electrical Inspector any inspection of any electric wires, apparatus, or appliances shall be defective by reason of improper or insufficient insulation, for obsolescence, for inadequacy of capacity or any other reason consistent with the then applicable version of the City's Electrical Code, the said Electrical Inspector shall at once cause the immediate removal of such defect and shall be empowered to cause the disconnection of any such facility, building, apparatus, equipment etc. from the public electric supply as shall then be necessary.

SECTION 3. Title 12, Chapter 3, Section 12-306 **Inspector's Right of Entry** shall be and is hereby amended by adding the words "spaces, enclosures, properties and facilities" immediately following the word "building" in the second line of said Section 12-306 and also following "buildings" in the sixth line of said Section 12-306.

SECTION 4. Title 12, Chapter 3, Section 12-308. **Covering Uninspected Work** shall be amended by adding, an additional sentence at the end of the said Section 12-308 as follows: If the inspector shall find any such previously uninspected work to have been previously covered, so

that the same cannot be seen, observed and inspected the inspector is authorized to require the same to be uncovered, at the expense of the owner/electrical contractor or other person or entity then in control of the particular premises, building, space, enclosure and or property then currently at issue.

SECTION 5. Title 12, Chapter 3, Section 12-310. **Re-inspecting Existing Wiring** shall be amended as follows: Add the words "and or any other electrical appliance, fixture, apparatus and or equipment" immediately after the word "wiring" and immediately before the word "installation" in the second line of said Section 12-310.

SECTION 6. Title 12, Chapter 3, Section 12-317. **Permit Fees for Contractors** subsection (1) of said Section 12-317 is amended (a) by deleting the words "The City Commission having acted by Ordinance and contract to designate the Hamilton County Electrical Inspector as the Electrical Inspector for the City of Red Bank" from Subsection (1) such that the first word of Subsection (1) is the word "The" as otherwise currently provided in Subsection (1), and (b) by incorporating and adopting the following fee schedules:

(1) **Residential Electrical Permit Fees:**

Item	Fee
*Permit Fee	\$50.00
*Inspection Fee (Rough-in/Final)	\$70.00
Re-Inspection Fee	\$35.00
Temp. Service (100 amp max)	\$20.00
Inspection Fee (when power is out over one year)	\$50.00

(2) **Commercial Electrical Permit Fees:**

Item	Fee
0-30 Amp Circuits	\$4.00 each
31-100 Amp Circuits	\$8.00 each
100 Amp Circuits or More	\$16.00 each
Temp. Service (100 amp max)	\$35.00
Service over 600 volts (\$0.40 per KVA \$100 minimum)	\$100.00 minimum
Re-Inspection Fee	\$35.00
Sign: 25 square feet or less	\$40.00
each additional square foot (over 25 square feet)	\$0.40
Signs re-erected on same location (same supports)	\$40.00
Signs removed from one location to another (permit to be taken for new location plus \$0.40 per sq. ft. over 25)	\$40.00 minimum
Permit not required for sign removal	
*Permit Fee	\$50.00

SECTION 7. Title 12, Chapter 3, Section 12-317 Subsection (2) is further amended by deleting the words "Hamilton County Electrical Inspectors Office" from the second line of said



Subsection (2) and substituting in its place instead thereof "The Office from the Red Bank Chief Electrical Inspector's Office, or such entity, person, place or Office located in the City of Red Bank, Tennessee as shall be designated by the City Manager, from time to time".

SECTION 8. Title 12, Chapter 3, Section 12-319. Notice, Correction of Defects Etc. shall be amended by deleting the words "Three (3) dollars for compliance" from Subsection (1) and substituting in place instead thereof the following:

See Section 12-317 for fee schedules

SECTION 9. Every section, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

SECTION 10. This Ordinance shall take effect from and after the date of its final passage the health, safety and welfare of the citizens of the City of Red Bank requiring it.

Tracey L Perry 2/3/22  
City Recorder Tracey Perry (date)

Hollie Berry 2/3/22  
Mayor Hollie Berry (date)

January 18, 2022  
Passed on First Reading

February 1, 2022  
Passed on Second and Final Reading

Approved as to form:

Arnold Andrew  
City Attorney