

TITLE 45

Towns and cities

CHAPTER 45-59

District Management Authorities

SECTION 45-59-22

§ 45-59-22 Dissolution. – (a) Any district management authority may be dissolved and the designation of a management district terminated by ordinance or resolution of the city or town council of the municipality within which it is located adopted after public hearing as provided in § 45-59-6.

(b) Any district management authority must be dissolved and the designation of a business district terminated by ordinance or resolution of the city or town council of the municipality within which it is located upon the receipt of a written petition for dissolution signed by persons who own real property located within the district constituting, in the aggregate, not less than sixty percent (60%) of the aggregate valuation of all real property, not exempt from taxation by law, located within the district.

(c) Any district management authority will be automatically dissolved and the designation of a management district will be automatically terminated at the end of the third full fiscal year after its creation and designation and after it has actually commenced providing services unless the continuance of the existence of the district management authority and the designation of the district is approved in writings which are filed with the clerk of the municipality within which the management district is located and are signed by persons who own real property located within the district and within any subdistrict constituting, in the aggregate, not less than sixty percent (60%) of the aggregated assessed valuation of all real property, not exempt from taxation by law.

(d) Any such dissolution and termination occurring under the provisions of subsections (a) and (b) of this section will be effective as of the end of the fiscal year within which the ordinance or resolution of the city or town council is enacted except that the district management authority's existence will continue for the limited purpose provided for in subsection (e) of this section. Any such dissolution occurring under the provisions of subsection (c) of this section will be effective at the time provided in subsection (c) except that the district management authority's existence will continue for the limited purpose provided for in subsection (e) of this section.

(e) Upon its dissolution, the district management authority will discontinue its operations and proceed to wind up its affairs. Notwithstanding its dissolution, the district management authority will continue in existence for the limited purpose of paying any indebtedness which it has incurred prior to its dissolution and it may continue to make special tax assessments for that purpose. After all of the indebtedness of the district management authority has been paid or its payment provided for, the remaining property and assets of the district management authority will be paid over to the municipality unless another disposition of the property and assets, benefiting the management district, has been directed by the district management authority's board of directors.

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City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER 2004-35

No. 347

AN ORDINANCE

IN AMENDMENT OF CHAPTER 21 OF THE CODE OF ORDINANCES OF THE CITY OF PROVIDENCE, ENTITLED "REVENUE AND FINANCE," BY ADDING ARTICLE XIII, "BUSINESS IMPROVEMENT DISTRICTS."

Approved August 13, 2004

Be it ordained by the City of Providence:

WHEREAS, Title 45, Chapter 59 of the Rhode Island General Laws has provided for the creation and functioning of Business Improvement Districts; and

WHEREAS, Petitions bearing the signatures of the owners of more than 60% (by assessed valuation) of the real property within a proposed Downtown Providence Management District have been submitted to the Providence City Clerk; and

WHEREAS, The Providence City Council desires to set forth the legal basis upon which Business Improvement Districts can operate in our City; and

WHEREAS, Neither the state law nor this Ordinance contemplate any erosion of the City's powers and authority; and

WHEREAS, The City's jurisdiction to issue permits and approvals is retained, and that none of the purposes or powers included within the grant of authority contained herein shall be exercised to limit the City's jurisdiction; and

Now, therefore, it is enacted as follows,

SECTION 1. The Code of Ordinances of the City of Providence is hereby amended by adding to Chapter 21 the following as Article XIII, "Business Improvement Districts":

Section 21-213. Definitions and construction. – (a) As used in this article, unless the context otherwise requires, the term:

No.

CHAPTER
AN ORDINANCE

MAY 6 2004

FIRST READING
REFERRED TO COMMITTEE ON
ORDINANCES

Michael R. Cleveland
Clerk

Communications

THE COMMITTEE ON

Ordinances

Recommends - con. 4

Ann M. Steen
CLERK

5-25-04

6-7-04 - Schedule P. H.

6-30-04 Pkg held

THE COMMITTEE ON
ORDINANCES

Approves Passage of
The Within Ordinance, as Amended

Ann M. Steen
Clerk

7-19-04

(1) "Chief elected officer" means the Mayor, who exercises day-to-day executive authority over the municipality's affairs.

(2) "District management authority" means a district management authority established pursuant to the provisions of this article.

(3) "Fiscal year" means the fiscal year of the municipality within which the management district is located; "first fiscal year" means the first full fiscal year after the fiscal year during which the management district is created; subsequent fiscal years are referred to in like manner.

(4) "Management district" means a management district established pursuant to the provisions of this article and, as the context may require, includes any subdistrict within the management district.

(5) "Municipality" means the City of Providence.

(6) "Real property" means land and buildings or structures located on the land but does not include lines, mains, poles, easements and rights-of-way owned by public utilities.

(7) "State" means the state of Rhode Island.

(b) References in this article to owners or tenants of real property located within a management district or residents of a management district, or managers of real property located within the management district will be construed to include shareholders, members, partners, directors, officers, employees or agents thereof.

Section 21-214. Creation of district or subdistrict. – A management district may be created by adoption of an ordinance by the Providence City Council, upon the written petition of persons owning real property located within the proposed district as provided in this article. A management district may contain one or more subdistricts. A subdistrict may be created within an existing district by compliance with the provisions of Section 21-215, solely with respect to the proposed subdistrict. Any subdistrict will be managed by the district management authority having management authority over the district in which the subdistrict is located.

Section 21-215. Public hearing on petition. – (a) The Providence City Council shall, no later than ninety (90) days after the receipt of the petition, hold a public hearing for the purpose of receiving comments from all interested persons on the approval of the

petition and the creation of a management district and a district management authority pursuant to the petition. Notice of the public hearing will be given by publication in a newspaper of general circulation within the municipality at least once a week for three (3) successive weeks prior to the date of the hearing. The notice will state the date, time and place of the hearing and contain a description of the boundaries of the proposed district, sufficient to reasonably identify the boundaries of the proposed district, a statement to the effect that it is proposed to create a management district and a district management authority which will have the power to provide services within the management district and apportion the cost of services among the owners of real property located in the district by means of a special tax assessment, and the office where a copy of the petition may be examined. No notice to the owners of property within the proposed district is required, other than the notice by publication referred to in this section. The boundaries of a district may be described by reference to streets or highways.

(b) At any time prior to the passage of the ordinance, the petition may be modified or amended by the petitioners or by persons authorized to act on their behalf without further advertising, provided, however, that in the event such modification or amendment to the petition would (1) enlarge or add additional real property to the proposed district; or (2) enlarge the purpose of the proposed district management authority; or (3) lessen any limitation on the powers of the district management authority, a new public hearing will be held in accordance with the provisions of subsection (a) of this section.

Section 21-216. Creation of authority. – (a) After the hearing, the Providence City Council may approve the petition by ordinance, which will contain a finding to the effect that:

(1) The petition has been submitted by persons who own real property located within the proposed district, and in any proposed subdistrict, constituting in the aggregate sixty percent (60%) of the aggregate assessed valuation of all real property not exempt from taxation by law; and

(2) A majority of the area of the land located within the proposed district is devoted to commercial and retail uses.

(b) For purposes of the finding required by subdivision (a)(1) of this section, the City Council may conclusively rely on the records of the City Assessor to determine the

ownership of real property located within the proposed district (barring actual notice to the contrary).

(c) Upon the approval of the petition by the City Council, a management district and a district management authority will thereby be created. The City Council may approve or disapprove the petition; it will have no authority to create a management district or district management authority which differs from that sought by the petition.

Section 21-217. The authority. – The district management authority thus created will be a body corporate and politic and an instrumentality and agency of the municipality within which the management district is located but having a distinct legal existence from the municipality. It is hereby declared that in exercising the powers granted to it by this article, the district management authority will exercise public and essential governmental functions of the municipality. No part of the net earnings of the district management authority will be distributable to, or inure to the benefit of, any private person.

Section 21-218. Purposes of authority. – (a) Except as its purposes may be limited by the petition, the management district commission authority will have the following purposes within the management district:

- (1) To provide for the cleaning of the public streets and sidewalks and the removal of snow;
- (2) To provide for security; however, nothing contained in this section shall bestow or authorize any police powers on any security force established by this provision;
- (3) To install, repair and maintain public streets and sidewalks and lighting for public streets and sidewalks;
- (4) To install, repair and maintain street signs;
- (5) To provide for landscaping and the repair and maintenance of public spaces;
- (6) To provide for refuse collection and removal;
- (7) To provide for motor vehicle parking;
- (8) To sponsor and promote recreational, cultural and retail activities;
- (9) To promote the development of the management district including collecting and disseminating information;

(10) To construct public facilities; and

(11) To provide such other services and facilities within the management district as may be beneficial to the management district and the property owners, tenants and other occupants in the district; and

(12) Any other purposes granted by the Rhode Island General Assembly.

Section 21-219. Powers of authority. – Except as its powers may be limited by the petition, the district management authority will have the power:

(1) To have perpetual succession unless a limited period of duration is stated in the petition;

(2) To sue and be sued, complain and defend, in its corporate name;

(3) To have a corporate seal which may be altered at pleasure, and to use the seal by causing it, or a facsimile of the seal, to be impressed or affixed or in any other manner reproduced;

(4) To purchase, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property or any interest in property, wherever situated, and without restriction as to amount;

(5) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets;

(6) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of domestic or foreign corporations, whether for profit or not for profit, limited liability companies, associations, partnerships or individuals, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof;

(7) To make contracts and guarantees and incur liabilities, borrow money, for periods of three (3) years or less, at such rates of interest as the district management authority may determine, issue its notes and other obligations, guarantee debts and secure any of its obligations by mortgage or pledge of all or any of its property, assets and income;

(8) To lend money for its purposes, invest and reinvest its funds, and to take and hold real and personal property as security for the payments of funds so loaned or invested;

(9) To elect or appoint officers and agents of the district management authority and to define their duties;

(10) To make and alter bylaws, not inconsistent with the petition or with the laws of this state, for the administration and regulation of the affairs of the district management authority;

(11) To accept grants or funds from the state and from nonprofit corporations;

(12) To have and exercise all other powers necessary or convenient to effect any or all of the purposes for which the district management authority is created.

Section 21-220. Bylaws. – The board of directors of the district management authority may adopt bylaws containing provisions for the regulation and management of the activities of the district management authority.

Section 21-221. Governing board. – (a) The activities of the district management authority will be managed by a board of directors which will consist of nine (9) members.

(b) All of the directors will be owners or tenants of real property (not exempt from taxation by law) located within the management district or residents of the management district, or managers of real property (not exempt from taxation by law) located within the management district except for (1) the Mayor or his or her designee; (2) owners of real property located within the management district which is exempt from taxation by law who are voluntarily contributing to the costs of operating the management district.

(c) Two (2) of the directors will be appointed by the Mayor, one of whom may be the chief elected officer of the municipality or his or her designee and the other will be an owner of real property (not exempt from taxation by law) located within the management district. Seven (7) of the directors will be appointed by the organization which was designated in the petition; four (4) of the seven (7) directors so appointed will be owners of real property (not exempt from taxation by law) located within the management district or owners of real property located within the management district which is exempt from taxation by law who are voluntarily contributing to the costs of operating

the management district. One of the directors appointed by the organization shall be a domiciliary of the management district.

(d) Terms for the directors will be as follows:

(1) The Mayor will assign to the persons initially appointed by him or her terms of one and two (2) years so that the terms of the directors so appointed will expire on the last days of the first and second fiscal years respectively.

(2) The business organization designated in the petition will assign to the seven (7) persons initially appointed by it, terms of one (1) year (as to two (2) of them), two (2) years (as to two (2) of them), and three (3) years (as to three (3) of them) so that the terms of the directors so appointed will expire on the last days of the first, second and third fiscal years respectively.

(3) Beginning on the last day of the first fiscal year and on the last day of each succeeding fiscal year, the appointing authorities will appoint directors to succeed the directors whose terms are then expiring, which successor directors will serve for terms of three (3) years and thereafter until their successors are appointed and will have qualified.

(e) Directors will receive no compensation for the performance of their duties but may be reimbursed for their reasonable expenses in carrying out such duties.

Section 21-222. Officers. – (a) The officers of a district management authority will consist of a chairperson, a treasurer and a secretary, each of whom will be elected by the board of directors. Such other officers and assistant officers and agents as may be deemed necessary may be elected or appointed by the board of directors at any time and in any manner that may be prescribed by the bylaws. Any two (2) or more offices may be held by the same person.

(b) All officers and agents of the district management authority will have such authority and perform such duties in the management of the district management authority as may be provided in the bylaws, or as may be determined by resolution or vote of the board of directors, subject to any limitations on such authority contained in the bylaws.

Section 21-223. Annual budget. – (a) Not later than sixty (60) days prior to the beginning of each fiscal year, the district management authority will annually prepare an operating budget containing:

(1) An estimate of surplus from its current fiscal year available for expenditure in the ensuing fiscal year;

(2) An estimate of receipts for the ensuing fiscal year from the special tax assessment provided for in this article;

(3) An estimate of receipts for the ensuing fiscal year from all other sources; and

(4) An estimate of expenditures for the ensuing fiscal year for the carrying on of the district management authority's activities including debt service, if any.

(b) Prior to the adoption of the budget, the district management authority will hold a public hearing thereon at which all interested persons may be heard. Notice of the public hearing will be given by publication in a newspaper of general circulation within the municipality at least once a week for three (3) successive weeks prior to the date of the hearing.

Section 21-224. Special tax assessments. – Each district management authority will have the power to apportion the annual operating expenses of the district management authority by a special tax assessment amongst the owners of ratable real property, not otherwise exempt by law, located within the management district. The special tax assessment will be based on the factors set forth in the petition approved by the City Council. The rate of the special tax assessment with respect to any subdistrict may vary in the amount from the rate of the special tax assessment generally applicable to the owners of ratable real property within the management district. The special tax assessments made by a district management authority will not be considered to be a tax of the municipality for purposes of determining the maximum levy under R.I.G.L. § 44-5-2.

Section 21-225. Limit on assessments. – The total of the special tax assessments levied on the ratable real property within the management district will not exceed ten percent (10%) of the total of the real property taxes levied on the ratable real property within the management district, not exempt from taxation by law, for the fiscal year of the municipality that ends within or with the fiscal year of the district management authority. Individual district management authorities may opt to set a lower special tax assessment rate.

Section 21-226. Collection of assessments. – The assessments made by any district management authority will be collected by the City Collector for the account of the district management authority. The assessments so collected will not be commingled with funds of the municipality and forthwith upon their collection will be remitted to the district management authority. Assessments will be a lien on the real property of the persons against whom the assessments are made in the same manner as taxes assessed by the City, pursuant to R.I.G.L. § 44-9-1. The City Collector may assign, by mutual consent, any and all of the collection process to the district management authority. Said assignment shall be defined by an agreement between the City and the district management authority.

Section 21-227. Petition for relief from assessment. – Any person aggrieved on any ground whatsoever by any assessment against him or her by a district management authority may, within three (3) months after the last day appointed for the payment without penalty of the assessment, or the first installment of the payment, if the assessment is payable in installments, file a notice of appeal with the district management authority, and within thirty (30) days thereafter, file a petition in the Providence County Superior Court for relief from the assessment, to which petition the district management authority will be made a party respondent.

Section 21-228. Agreements with the City. – The services provided by a district management authority will be supplemental to the services otherwise provided by the City within the management district.

Section 21-229. Amendment. – At any time after the approval of a petition and the creation of a district management authority, the boundaries of the management district and the purposes and powers of the district management authority may be amended by the filing of a petition for amendment. The petition will set forth the amendments sought; it will be signed either (1) by not less than two-thirds (2/3) of the members of the district management authority board of directors, or (2) in the event that additional property is to be included within the district, by persons who own real property located within the additional property which is to be included within the revised boundary of the district and who constitute in the aggregate, sixty percent (60%) of the aggregate assessed valuation of all real property, not exempt from taxation by law, of

such additional real property. The petition will be heard and acted upon by the City Council in the same manner as petitions are required to be heard and acted upon pursuant to Sections 21-215 and 21-216. Upon the approval of the petition for amendment by the City Council, the boundaries of the management district and the purposes and powers of the district management authority will be as set forth in the petition for amendment.

Section 21-230. Dissolution. – (a) Any district management authority may be dissolved and the designation of a management district terminated by ordinance of the City Council after public hearing as provided in R.I.G.L. § 45-59-6.

(b) Any district management authority must be dissolved and the designation of a business district terminated by resolution of the City Council upon the receipt of a written petition for dissolution signed by persons who own real property located within the district constituting, in the aggregate, not less than sixty percent (60%) of the aggregate valuation of all real property, not exempt from taxation by law, located within the district.

(c) Any district management authority will be automatically dissolved and the designation of a management district will be automatically terminated at the end of the third full fiscal year after its creation and designation and after it has actually commenced providing services unless the continuance of the existence of the district management authority and the designation of the district is approved in writings which are filed with the City Clerk and are signed by persons who own real property located within the district and within any subdistrict constituting, in the aggregate, not less than sixty percent (60%) of the aggregated assessed valuation of all real property, not exempt from taxation by law.

(d) Any such dissolution and termination occurring under the provisions of subsections (a) and (b) of this section will be effective as of the end of the fiscal year within which the resolution of the City Council is enacted except that the district management authority's existence will continue for the limited purpose provided for in subsection (e) of this section. Any such dissolution occurring under the provisions of subsection (c) of this section will be effective at the time provided in subsection (c) except that the district management authority's existence will continue for the limited purpose provided for in subsection (e) of this section.

(e) Upon its dissolution, the district management authority will discontinue its operations and proceed to wind up its affairs. Notwithstanding its dissolution, the district management authority will continue in existence for the limited purpose of paying any indebtedness which it has incurred prior to its dissolution and it may continue to make special tax assessments for that purpose. After all of the indebtedness of the district management authority has been paid or its payment provided for, the remaining property and assets of the district management authority will be paid over to the municipality unless another disposition of the property and assets, benefiting the management district, has been directed by the district management authority's board of directors.

Section 21-231. Exemption from taxation. – (a) Any notes or other obligations issued by any district management authority, their transfer and the income from the notes or obligations (including any profits made on the sale of the notes or obligations), will at all times be free from taxation by the state or any political subdivision or other instrumentality of the state.

(b) The exercise of the powers granted by this article will be in all respects for the benefit of the people of this state and of the City of Providence which the district management authorities will undertake their activities, the increase of their commerce, welfare and prosperity and for the improvement of their health and living conditions and will constitute the performance of essential governmental functions and the district management authorities will not be required to pay any real or personal property taxes or assessments upon or in respect of any property owned by them levied by any municipality or other political subdivision of the state.

Section 21-232. Credit of City not pledged. – Notes and other obligations of a district management authority will not be deemed to constitute the debt or a pledge of the faith and credit of the City of Providence.

Section 21-233. Exemption from liability. – No member of the board of directors of a district management authority and no officer of an authority will be held civilly liable for any breach of his or her duties as such member or officer except for liability for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of law; or for any transaction from which such member or officer derived an improper personal benefit; or for any malicious, willful or wanton act.

Section 21-234. Notice of creation of district; actions to contest. – Notice of the creation of a management district and a district management authority will be given by publication in a newspaper of general circulation within the municipality at some time subsequent to the approval of the petition by the City Council as provided in Section 21-216. Actions to contest the validity of the proceedings for the creation of the management district and the district management authority must be commenced within sixty (60) days after the date of the notice and no action thereafter commenced will raise any question concerning the validity of the proceedings and the creation of the management district and the district management authority. After the expiration of the sixty (60) day period, the validity of the proceedings and the creation of the management district and the district management authority will be conclusively presumed.

SECTION 2. This Ordinance will take effect upon passage.

IN CITY COUNCIL
JUL 26 2004
FIRST READING
READ AND PASSED

Michael B. Clermont
CLERK

APPROVED

J. H. [Signature] 8/13/04
MAYOR

IN CITY COUNCIL
AUG 5 2004
FINAL READING
READ AND PASSED

Barbara A. Young
PRESIDENT **ACTING**

Michael B. Clermont
CLERK *(cb)*