ORDINANCE NO. 2022-08

ORDINANCE OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF BELMAR, COUNTY OF MONMOUTH, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 34 OF THE BOROUGH CODE ENTITLED “BELMAR SPECIAL IMPROVEMENT DISTRICT.”

WHEREAS, the Governing Body of the Borough of Belmar, (the “Borough”) by Ordinance No. 2010-06 created Chapter 34 titled Belmar Special Improvement District; and

WHEREAS, the Borough found it necessary and proper to establish the Belmar Special Improvement district to asst in fostering the District’s economic development, encourage the District’s revitalization and strengthen the district’s economic and commercial contributions to residents and property owners within the Borough; and

WHEREAS, previously the Borough found in passing §34-3(e) that it was necessary to institute a special assessment against the benefiting properties as part of the regular property tax, or in the alternative, a payment in lieu of taxes. That furthermore, all payments received pursuant to this assessment would be transferred directly to the District Management Corporation; and

WHEREAS, previously the Belmar Special Improvement District was founded pursuant to Section 34-5, wherein the Belmar Special Improvement District was authorized to assess an annual cost against the properties which benefited from its existence; and

WHEREAS, the Borough finds it necessary and proper to amend Section 34-1 et seq to amend how the District Management Corporation overseeing the disbursement of funds and payment of costs incurred by the Belmar Special Improvement District receives its funding;

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Belmar, County of Monmouth, State of New Jersey, that Chapter 34 of the Borough Code entitled “Belmar Special improvement District” be amended as follows:

SECTION I:

* + - 1. § 34-1 **PURPOSE.**

The purposes of this Chapter are to:

a. Foster the District's economic development, encourage the District's revitalization and strengthen the district's economic and commercial contributions to residents and property owners of the Borough of Belmar (also referred to as the "Borough").

b. Allow all those who live, work or invest in the District to contribute to the improvement of the District.

c. Foster the building of a private/public partnership to implement the improvement of the Borough of Belmar.

d. Foster and create self-help programs to improve the local business climate.

* + - 1. § 34-2 **DEFINITIONS.**

**DISTRICT MANAGEMENT CORPORATION (ALSO REFERRED TO AS DMC)**

Shall mean the Belmar Business Partnership, Inc. (BBP) an entity incorporated pursuant to Title 15A of the New Jersey Statutes and designated by this ordinance to receive funds allocated by the Mayor and Council from income generated by the Tourism fee assessment imposed pursuant to §3-6.6, as authorized by this ordinance and any amendatory supplementary ordinances.

**SPECIAL IMPROVEMENT DISTRICT (ALSO REFERRED TO AS DISTRICT OR SID)**

Shall mean that area within the Borough as designated by this Chapter as an area in which a special assessment on property within the District shall be imposed for the purpose of promoting the economic and general welfare of the District and the Borough.

* + - 1. § 34-3 **FINDINGS.**

The Council finds and declares that:

a. The business areas of the Borough of Belmar have special needs and require special services that can best be achieved through a private/public partnership implemented by a Special Improvement District ("SID") and a District Management Corporation ("DMC").

b. The creation of a Special Improvement District and designation of District Management Corporation will promote economic growth and implement, foster and encourage commercial development business vitality, expansion and self-help, and improve the business climate and otherwise be in the best interest of the property owners in the District and in the Borough.

c. The area within the Borough, as described by lot and block numbers and by street addresses as set forth in Schedule A which may be found as an attachment to this Chapter will benefit from being designated as a Special Improvement District.

d. A District Management Corporation will provide the administrative, programming and other services to benefit the businesses, employees, residents and consumers in the Special Improvement District and the District Management Corporation will assist the Borough in promoting economic growth, employment and development.

e. It is in the best interest of the Borough and the public to continue funding the Belmar Special Improvement District, however, the Borough finds it necessary and proper that any funding that may be allocated to the District Management Corporation shall only be transferred after the District Management Corporation applies to the Borough for a budget itemizing how the funds shall be utilizes to effectuate the purpose of this chapter, and any amendatory and supplementary statutes, and to exercise the powers given to it by this chapter**.**

f. It is in the best interests of the Borough and the public to create a special improvement district and to designate a District Management Corporation; except that no District Management Corporation shall be designated to receive any funds or to exercise any powers pursuant to the provisions of N.J.S.A. 40:56-67 et seq. and any amendatory or supplementary statutes, unless the board of directors of that corporation shall include at least one member of the Borough Council.

* + - 1. § 34-4 **CREATION OF THE DISTRICT APPLICABILITY.**

a. There is hereby created and designated within the Borough a Special Improvement District to be known as the Belmar Business Partnership Special Improvement District consisting of all properties as set forth inSchedule A..

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NEW SECTION 34-5 “PROCEDURE FOR FUNDING”

1. It is hereby determined that the operation and maintenance of the District may involve annual costs relating to services peculiar to the District that are distinguished from operation and maintenance services normally provided by the Borough outside the District.
2. The District Management Corporation shall submit an annual budget for the upcoming fiscal year in accordance with the provisions identified in §34-8 herein. This Budget shall be voted upon by the Mayor and Council consistent with provisions listed within this chapter.
3. The District Management Corporation shall also be permitted to apply for additional funding from the Mayor and Council for certain projects necessary to effectuate the purpose of this chapter. However, the receipt of such funding shall be subject to the discretion of the Mayor and Council, and any and all funds received shall be allocated from the income generated by the Tourism Fee imposed pursuant to Section 3-6.6. At no point shall the allocated funding exceed the total income generated by Tourism Fee during the subject fiscal year for which the application is made.

#### § 34-6 THE DESIGNATED DISTRICT MANAGEMENT CORPORATION.

a. The nonprofit corporation, the Belmar Business Partnership, Inc. an entity incorporated pursuant to N.J.S.A. 15A:1-1 et seq., is hereby designated as the District Management Corporation for the District and designated by this Chapter to receive funds allocated by the Mayor and Council. This management corporation, in addition to acting as an advisory board to the Council, shall have all powers necessary and requisite to effectuate the purpose of this Chapter and the District, including, but not limited to:

1. Adopt bylaws for the regulation of its affairs and conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its function and duties;

2. Employ such persons as may be required, and to fix and pay their compensation from funds available to the District Management Corporation;

3. Apply for, accept, administer and comply with the requirements respecting an appropriation of funds or a gift, grant or donation of property or money;

4. Make and execute agreements which may be necessary or convenient to the exercise of the powers and functions of the corporation, including contracts with any person, firm, corporation, governmental agency or other entity, with the permission of the Mayor and Council.

5. Administer and manage its own funds and accounts and pay its obligations , provided the use of such funds in the accorded manner was previously authorized by Mayor and Council;

6. Borrow money from private lenders for periods not to exceed 180 days and from governmental entities for that or longer periods, with permission of the Mayor and Council;

7. Fund the improvement of the exterior appearance of properties in the District through grants or loans. However, the use of loans shall only be permitted with the authorization of the Mayor and Council;

8. Fund the rehabilitation of properties in the District;

9. Accept, purchase, rehabilitate, sell, lease or manage property in the District;

10. Enforce the conditions of any loan, grant, sale or lease made by the District Management Corporation;

11. Provide security, sanitation and other services to the District, supplemental to those provided normally by the municipality;

12. Undertake improvements designed to increase the safety or attractiveness of the District to businesses which may wish to locate there or to visitors to the District, including, but not limited to, litter cleanup and control, landscaping, parking areas and facilities, recreational and rest areas and facilities, pursuant to pertinent regulations of the Borough;

13. Publicize the District and the businesses included within the District boundaries;

14. Recruit new businesses to fill vacancies in, and to balance the business mix of, the District;

15. Advise the Mayor and Borough Council in connection with the acquisition and construction of improvements and the operation and maintenance thereof in the Special Improvement District, and making of a plan therefor and the recommendations, comments or requests of members of the public and of owners and occupants of property included within the Special Improvement District;

16. Provide special parking arrangements for the District;

17. Provide temporary decorative lighting in the District;

18. Organize special events in the District;

19. Review all applications, plans, specifications, etc. for the proposed construction or alteration of any and all exterior improvements to buildings and facades within the Special Improvement District for the purpose of providing advice and recommendations to those wishing to improve their properties. Recommendations produced under this section will be forwarded to the appropriate approving authority, namely the Borough's Construction Code Official, Planning Board or the Board of Adjustment;

20. Advise the distribution and location of movable furniture, sculpture or pedestrian traffic control devices, landscaping and other facilities not otherwise located or fixed by the plans and specifications.

b. In order to receive any funds or exercise any of the powers granted herein, the Board of Trustees of the Corporation shall include at least one member of the Governing Body of the Municipality of the Borough of Belmar.

* + - 1. § 34-8 **FISCAL YEAR AND ANNUAL BUDGET.**

a. The fiscal year of the District shall be the same as the Borough.

b. The District Management Corporation shall submit a detailed annual budget for the upcoming fiscal year by no later than the end of the current fiscal year of the Borough for approval by resolution by the Council.

c. The budget shall be submitted with a report which explains how the budget contributes to goals and objectives for the Special Improvement District. The budget shall be reasonably itemized and shall include a summary of the categories of cost properly chargeable as follows:

1. The amount of such costs to be charged against the general funds of the Borough, if any.

2. The amount of such costs to be charged against the funds generated by Tourism Fee authorized by § 3-6.6

d. The budget shall be introduced, approved, amended and adopted by resolution passed by not less than a majority of the full membership of the Borough Council.

e. The budget shall be introduced in writing at meeting of the Council. Approval thereof shall constitute a first reading, which may be by title. Mayor and Council, upon approval of the budget, may in its discretion fix the time and place for the holding of a public hearing upon the budget.

f. No budget shall be adopted unless presented to the Mayor and Council and voted upon in accordance with this Chapter.

g. The Governing Body may adopt the budget by title, without amendments, or may approve amendments, as provided in Section **34-8h**, before adoption.

h. The Governing Body may amend the budgetat its discretion to further purposes of this section.

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* + - 1. § 34-9 **FISCAL REQUIREMENTS, ANNUAL REPORTS, AUDIT.**

a. . The Borough may incur the annual costs of improving, operating and maintaining a Special Improvement District during a fiscal year, though not specifically provided for by line item or other category in an approved estimate for such fiscal year, if in its discretion it shall be deemed necessary to provide for such annual improvements or operation or maintenance prior to the succeeding fiscal year and so long as the total amount of the account approved for that year is not exceeded by the expenditure. Any balances to the credit of the account and remaining unexpended at the end of the fiscal year shall be maintained and applied towards the financial requirements of the succeeding year.

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c. . The Borough shall make all funding available to the District Management Corporation pursuant to its proposed budget on a quarterly basis, specifically the 15th day of February, may, August, and November of each year. The Borough shall not be obligated to pay over funds not received by the Borough.

d. The District Management Corporation shall cause an annual audit of its books, accounts and financial transactions to be made and filed with the Council and for that purpose shall employ a Certified Public Accountant of New Jersey. The annual audit shall be completed and filed with Governing Body within four months after the close of the fiscal year of the corporation, and a certified copy of the audit shall be filed with the Director of Community Affairs within five days of the filing of the audit with the Council.

e. District Management Corporation shall, within 30 days after the close of each fiscal year, make an annual report of its activities for the proceeding fiscal year to the Council and the Borough Clerk.

* + - 1. § 34-10 **NO LIMITATION OF POWER.**

Nothing contained herein shall prevent the Council at any time, subsequent to the adoption of this Chapter, by ordinance abandoning the operation of the Special Improvement District, changing the extent of the Special Improvement District, supplementing or amending the description of the District, changing or repealing any plan, rules, requisitions or limitations adopted for the operation of the Special Improvement District or rescinding the designation of or redesignating a District Management Corporation.

**SECTION II.**

If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

**SECTION III**. All ordinances or parts of ordinances inconsistent with or in conflict with the Ordinance are hereby repealed to the extent of such inconsistency.

**SECTION IV.** This Ordinance shall be effective twenty days after its adoption.

**CERTIFICATION**

 I, **APRIL CLAUDIO** , Municipal Clerk of the Borough of Belmar, do hereby certify that the foregoing ordinance was duly adopted on second reading by the Mayor and Borough Council at a meeting held on the \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2022.

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 **APRIL CLAUDIO**, Borough Clerk