



Legislation Text

File #: 26-0135, Version: 1

AN ORDINANCE AMENDING TITLE X, FINANCE AND TAXATION, CHAPTER 10, ARTICLE 32, SPECIAL IMPROVEMENT DISTRICTS, SECTIONS 10:32-5.1 THROUGH 10:32-5.4 OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK TO REVISE TERMINOLOGY AND CLARIFY COLLECTION AND ADMINISTRATION OF THE TOURISM IMPROVEMENT DISTRICT LICENSE FEE.

WHEREAS, the City of Newark has established the Greater Newark Tourism Improvement District (“GNTID”); and

WHEREAS Section 10:32-5.4 provides for the imposition of a Tourism Improvement District license fee assessment upon hotel owners and transient accommodation operators within the District; and

WHEREAS the City desires to further define, clarify and centralize the collection of all such Tourism Improvement District license fees within the Department of Economic and Housing Development, Division of Housing and Finance; and

WHEREAS, this amendment does not change the rate of the fee, the boundaries of the District, or the entities subject to the fee, but solely further defines and clarifies the collection and administration process.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

Note: Additions are shown as **underlined and bold**. Deletions are ~~strikethroughs~~.

Section 1:

10:32-5.1 Definitions.

TOURISM IMPROVEMENT DISTRICT LICENSE FEE (TID LICENSE FEE) -

Shall mean the municipal license fee imposed upon hotel owners, transient accommodation operators, and transient space marketplaces operating within the Greater Newark Tourism Improvement District pursuant to §10:32-5.4 of this Chapter, for the purpose of funding the administration, management, and operations of the District.

(All other definitions contained in §10:32-5.1 shall remain in full force and effect.)

10:32-5.2 Findings.

d. That all expenses for the administration and management of the District (which expenses may be incurred and/or co-mingled on a shared basis with the administration and management of other, unrelated functions of the Newark Alliance, with the approval of its Board of Trustees, acting as the board of trustees of the District Management Corporation pursuant to § 10:32-5.5, in its sole discretion) should be funded by a special license fee assessment **TID License Fee** imposed and collected by the City on the hotel properties and transient accommodations identified in Schedule A of this Section who benefit from and facilitate tourism within the District and within the City. Such levy shall be collected by the City and shall be transferred to the District Management Corporation to effectuate the purposes of this Section and to exercise the powers granted to it pursuant to this Section. The Newark Alliance shall be under no obligation to provide funds for the administration and management of the District from any other source, but may, however, raise funds through grants and other philanthropic opportunities for the benefit of the District.

10:32-5.3 Establishment of the District.

- a. Based upon the findings hereinabove set forth and the interests of the hotel business owners, transient accommodation operators, merchants and property owners comprising the District, there is hereby established the Greater Newark Tourism Improvement District ("TID" or the "District") as a Special Improvement District within the City of Newark pursuant to the provisions of the Act.
- b. The hotel industry properties and businesses shall consist of all hotel properties and **transient space marketplace operators** within the City of Newark, which are identified by street address and by Block and Lot designation in Schedule A. Included among such properties identified in Schedule A are two properties that were previously under construction, which properties shall not be subject to the **TID** license fee assessment until after obtaining a Certificate of Occupancy. Schedule A may be amended by ordinance to add new hotel properties and transient accommodations or to delete properties which have a change of use from hotel to other uses.
- c. This Section contemplates that other contiguous municipalities may form similar Special Improvement Districts and such municipalities Special Improvement Districts, which are authorized to participate in the TID established by this Section and share in the benefits of the efforts of the District Management Corporation based upon **the TID** license fee assessments to be established that are commensurate with level of benefit received by such participants. Any such participating municipalities' Special Improvement Districts shall pay **the TID** license fee assessments to and be managed by the District Management Corporation designated pursuant to Section 10:32-6.5 herein.
- d. Schedule A is hereby amended to allow the inclusion of transient accommodations (Short-Term Rentals) on a rolling basis as they become identified and registered by the City of Newark.

10:32-5.4. ~~License fee assessments~~ **Tourism Improvement District License Fees.**

a. All costs of improvements and maintenance, other than those costs of improvements and maintenance normally incurred by the City of Newark out of general funds, shall be financed through a ~~business license fee~~, pursuant to N.J.S.A. 40:56-85, **to be known as the Tourism Improvement District License Fee (TID License Fee).** **The TID license fee shall be** and determined by the District Management Corporation and approved pursuant to N.J.S.A. 40:56-80. Hotel owners and transient accommodation operators in the TID shall pay a ~~license fee assessment~~ **TID license fee** of not less than 1.5% of the hotel room and transient accommodation rates charged and actually paid. For example, if a hotel has 75 rooms and rents out 50 of those rooms at a rate of \$100 per room, the hotel shall pay a ~~license fee assessment~~ **TID license fee** of \$75 for that day. The ~~license fee assessment~~ **TID license fee** rate may be increased only if requested by a majority of the Board of Directors of the District Management Corporation.

b. No ~~license fee assessment~~ **TID license Fee** shall be due based upon rates collected on stays in rooms from 91 days and thereafter for any rooms rented for a stay of greater than 90 days, but there shall be ~~license fee assessments~~ **TID license fees** due for the initial ninety-day period. No ~~license fee assessment~~ **TID license fee** shall be charged based

upon any room occupancy that was booked or reserved and paid for prior to May 1, 2013. Any hotels subject to an assessment fee imposed by any other special improvement district within the City shall be entitled to deduction from the license fee assessment **TID license fee** due pursuant to this Section in an amount equal to the assessment fee paid by such hotel owner into such other special improvement district. Such deductions shall be determined by dividing the annual assessment fee paid to the other special improvement district by 12 and deducting that amount from each monthly license fee assessment **TID license fee** payment due pursuant to this Section.

c. In view of the policy reflected in N.J.A.C. 18:24-3.6 whereby the New Jersey Department of Treasury in adopting such regulation, has recognized that the importance of certain industries to the economy of the State out-weighs the benefit that would flow from imposition of sales taxes on such business, if a business is exempt from hotel taxes pursuant to N.J.A.C. 18:24-3.6 then such businesses shall be exempt from the Special Improvement District assessment fee hereby imposed and participating hotels shall not be expected, nor required to collect Special Improvement District assessments **TID License Fees** from any business exempt from hotel taxes and the hotels shall not be required, nor responsible to pay over any monies based upon hotel stays by businesses that are exempt from the hotel tax pursuant to N.J.A.C. 18:24-3.6.

d. License fee assessments **TID license fee** shall be collected by each hotel and transient accommodation owner or operator or transient space marketplaces (i.e. AIRBNB) as a regular additional "room charge" imposed upon such hotel owners and operators based upon actual room rentals. Hotel and transient accommodation owners and operators and transient space marketplaces shall pay all such license fee assessments **TID license fees** in quarterly installments due with regular real property tax payments each February, May, August, and November, which payments shall be received by the City Tax Collector **Department of Economic and Housing Development, Division of Housing and Finance** and paid over to the Management Corporation by the end of each month in which the license fee assessments **TID license fees** are collected. The City Tax Collector **Department of Economic and Housing Development, Division of Housing and Finance**, shall withhold from each quarterly payment an Administrative Fee of 1% of the amount actually collected by the Tax Collector **Department of Economic and Housing Development, Division of Housing and Finance**. All license fee assessment **TID license fee** payments collected by the Tax Collector **Department of Economic and Housing Development, Division of Housing and Finances** shall be placed and maintained in a special account that shall at all times be segregated from general municipal funds.

f. Unpaid license fee assessments **TID license fees shall constitute a municipal receivable enforceable by the City in accordance with applicable State law.** shall become a lien against the underlying property and shall be collectible in the same manner as any other municipal property taxes and assessments fees as provided by the laws of the State of New Jersey.

SECTION 2:

If any provision of this Ordinance or application thereof to any person(s) or circumstance is judged invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of the Ordinance that can be given effect without the invalidated provision or application, and to this end the provisions of this Ordinance are declared severable.

SECTION 3:

The Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

SECTION 4:

Codification. This Ordinance shall be a part of the Code of the City of Newark as though codified and fully set forth therein. The City Clerk shall have this Ordinance codified and incorporated in the official copies of the Code. The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Newark in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing

provisions not intended to be repealed.

STATEMENT

This Ordinance amends Chapter 10, Article 32 of the Revised General Ordinances of the City of Newark to revise terminology and clarify collection and administration of the Tourism Improvement District License Fee....

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