

TOWN OF BRATTLEBORO, VERMONT
Amendment to the Code of Ordinances

June 7, 2005

Pursuant to the authority granted to the Selectboard of the Town of Brattleboro under Title 24, Vermont Statutes Annotated, and pursuant to Town Charter, #M-15, Acts of 1984, Article IV, Section 6(28), Article VI Section 3(B) and such other general or special enactments as may be material hereto, the Selectboard of the town of Brattleboro does hereby create a new Chapter 15 of the Code of Ordinances, viz:

I. In order to establish a Special Assessment District in the downtown area to be called the Downtown Improvement District, by creating a new Chapter 15 as follows:

Chapter 15

**MUNICIPAL ACT TO ESTABLISH AND REGULATE THE DOWNTOWN
IMPROVEMENT DISTRICT**

Pursuant to Article VI Section 3(B) of the Town Charter, the Selectboard of the Town of Brattleboro hereby enact the following ordinance establishing a Special Assessment District to be called the Downtown Improvement District (hereinafter referred to as “District”); defining the area included in said District; and, defining the regulations under which said District shall be governed.

ARTICLE I. Purpose & Powers

Sec. 15-1.

To establish a Special Assessment District to be known as the Downtown Improvement District, within a defined area of the Town of Brattleboro. The District is created for the general purpose of maintaining and improving the economic, social, cultural and environmental vitality and quality of the District; to promote the Town and the District as a regional retail, commercial and service center; to serve as an advocate for the orderly development of the District; to encourage expansion of the retail, commercial and service base of the District and the Town; and to attract new business and investment.

The revenues from the District shall be designated funds to be utilized for the administrative and operating costs of projects of the duly designated downtown organization, as well as for the purchase, construction, repair, reconstruction and/or expansion of public improvements beneficial to the District.

ARTICLE II. Boundaries of the District and Definitions

Sec. 15-2. Boundaries

The District shall be comprised of all commercial real properties (hereinafter referred to as “assessed property”) within the designated downtown as designated by the State of Vermont pursuant to the Vermont Downtown Development Act and as depicted on the map of the Designated Downtown filed as part of the Town of Brattleboro’s Application for Downtown Designation

Renewal dated 03-04-2002 and on file in the Town Manager's Office. The District is generally bounded as follows (though the aforesaid map shall be the controlling document for purposes of inclusion within the District):

Beginning at a point on the west side of the Connecticut River, said point being easterly from the southern edge of Terrace Street, thence along Terrace Street to Putney Road; thence around the Vermont District Court property of the State of Vermont to Linden Street; thence across Linden Street and along the southern edge of Williston Street to Walker Place; thence southerly to the State of Vermont Office Building; thence around the perimeter of the Municipal Center Parking Lot to a point between 15 Grove Street and 31 Grove Street; thence southerly along the western edge of the High Grove Parking Lot to High Street; thence across High Street and along the private road known as Redding Place to its intersection with Green Street; thence westerly along Green Street to the intersection of Green Street and Church Street; thence southwest to Spring Street; thence westerly along Spring Street to a point marking the western boundary of the 107 Elliot Street (the Elliot Street High Rise); thence southerly to Elliot Street; thence easterly along Elliot Street to Elm Street; thence southerly along Elm Street to Flat Street; thence westerly along Flat Street to the boundary between the Town of Brattleboro and lands of Cersosimo; thence along the boundary between the lands of the Town of Brattleboro and Cersosimo to the Whetstone Brook; thence easterly (downstream) along Whetstone Brook to a point where the Brook makes a left hand bend; thence across the Whetstone Brook and easterly along the southern boundary of lands now or formerly of the Brattleboro Food Cooperative to a point between 13 Canal Street and 9 Canal Street; thence southerly along said boundary to Canal Street; thence southerly across Canal Street and southerly along the western boundary line of the so-called Abbot Block; thence easterly along the southern boundary of the so-called Abbott Block to South Main Street; thence southerly along South Main Street to Reeds Street; thence easterly along Reeds Street and to Route 142; thence southerly along Route 142 to the southern boundary of lands now or formerly of Marlboro College; thence easterly along the southern boundary of lands of Marlboro College; thence southerly along the railroad tracks to a point marking the southerly boundary of lands now or formerly of Lee Merrill/Barrows Coal Company; thence easterly to the western edge of the Connecticut River; thence northerly along the western edge of the Connecticut River to the point and place of beginning.

Sec. 15-3. Definitions of the District.

"Commercial property" means all taxable property excluding those defined as Homestead in 32 V.S.A §5401 (7).

"Assessed Property" shall include only real property in the District as defined by the taxing sections of the State statute.

"Appropriation" means the amount to be raised by the special assessment within the District for a specific year.

"Downtown Organization" means the non-profit corporation designated by the Selectboard in its applications for Designation in the Vermont Downtown Program.

Sec. 15-4 – 15-7. Reserved

ARTICLE III. Use of Funds

Sec. 15-8. Use

Revenues generated from the District shall be used to cover the administrative, operating, and capital costs of projects of the Downtown Organization. Determination of the Appropriation shall be made by recommendation of the Downtown Organization to the Selectboard, voted on by the Selectboard, and forwarded to Town Meeting.

The Town of Brattleboro reserves the right to charge reasonable fees for the collection and disbursement of funds of the Downtown Improvement District.

Sec. 15-9 – 15-10. Reserved

ARTICLE IV. Downtown Improvement District Appropriation

Sec. 15-11. Appropriation Presentation

The Downtown Organization shall present its recommendation for the Appropriation for the next fiscal year to the Selectboard by January 1. The presentation shall include, at a minimum, the Downtown Organization's approved work plan, budget, and the prior fiscal year's financial report. In addition, the Selectboard, working with the Downtown Organization, shall identify qualitative and/or quantitative measures to be monitored by the Downtown Organization. Such measures will serve to monitor the success of the Downtown Organization in fulfilling its purpose as stated in Article I. These measures will be reported to the Selectboard with the work plan.

- (A) For the fiscal year beginning July 1, 2005 and ending June 30, 2006 the Appropriation request shall be presented to the Selectboard as soon as possible after approval of this Ordinance. A Town Meeting shall be called as soon as possible after Selectboard approval.
- (B) The Downtown Organization shall provide the Selectboard with timely notice of any substantive change in its work plan or budget during the course of the fiscal year.

Sec. 15-12. Appropriation Process

The Downtown Organization, shall, at a minimum, hold one duly warned public meeting to solicit public input on downtown improvement projects for the coming year at least one month prior to making annual recommendations to the Selectboard.

- (A) The Downtown Organization shall adopt its work plan and budget in the following manner:
 - a. Committees of the Downtown Organization shall present their work plans and budgets to the Downtown Organization's Executive Committee for review and approval.
 - b. The Executive Committee shall present a consolidated work plan and budget to the Downtown Organization's Board of Directors for review and approval.

- c. The Board of Directors shall present its work plan and budget to the membership of the Downtown Organization for review and adoption at a duly warned meeting.
 - d. The Downtown Organization shall only present its recommendation for the Appropriation to the Selectboard after the budget and work plan have been approved at each level within the Organization and adopted by a vote of the membership.
- (B) Any natural person or corporation owning real property within the District and paying the special assessment shall be eligible for membership in the Downtown Organization upon completion of a membership form.
- (C) Any natural person or corporation doing business in the District or resident within the District shall be eligible for membership in the Downtown Organization upon completion of a membership form and payment of a membership fee up to, but not to exceed, \$100 per year, with the following exception. The membership fee for tenant residents of real property liable for the special assessment who are receiving U.S. Department of Housing and Urban Development Housing Choice Vouchers ("Section 8 housing") shall be \$10 per year
- (D) Any Brattleboro-based non-profit that is chartered to deal with the arts, housing, youth, the elderly, the disabled or the downtown economy or environment may designate a representative to be a member of the Downtown Organization upon payment of the same membership fee that is paid by commercial tenants in the District.
- (E) Eligibility for membership in the Downtown Organization may be extended to parties other than those defined in Section 402(B), (C), and (D).

Sec. 15-13. Approval

The Appropriation must be approved by the Selectboard and the representative Town Meeting. The vote shall be to accept the appropriation as presented. In the event that the Selectboard fails to approve the appropriation, the Selectboard shall send the request back to the Downtown Organization along with reason for rejection. The Downtown Organization shall submit a revised budget until Selectboard approval is secured.

Upon Selectboard approval the appropriation is presented to Town Meeting for approval.

Sec. 15-14. Rights, Powers and Duties

The rights, powers and duties of the Downtown Organization, as set forth in this section, shall be broadly construed to accomplish the purposes set forth within the District exclusively and shall include the following:

- (A) to propose the Appropriation for the District in accordance with Section 401 hereof;
- (B) to advertise and promote the District;

- (C) to represent the interests of the District;
- (D) to receive and expend contributions, grants, and income;
- (E) to expend funds as provided for in the Appropriation;
- (F) to supplement the services and maintenance of public spaces provided the District by the Town;
- (G) to install and make public improvements
- (H) to cooperate with the Town in the use, management and improvement of public parking facilities
- (I) to enter into contracts;
- (J) to plan for the orderly development of the District in cooperation and coordination with the Town Plan and Town Planning Commission;
- (K) to do all other things necessary or convenient to carry out the purposes of the Section.
- (L) for Capital Projects on public property, to recommend to the Town the improvements to be made. However, any contracting shall be done by the Town of Brattleboro if it so elects and the Town of Brattleboro may charge administrative fees.

Sec. 15-15 – 15-18. Reserved

ARTICLE V. Tax Assessment

Sec. 15-19. District Taxes

District taxes are charges levied upon the owners of commercial taxable real properties located in the District, as of April 1 of the year in which this ordinance is adopted. Taxes so generated shall be used for projects benefiting the District.

Sec. 15-20. Tax Rate

The tax rate shall be determined by dividing the amount to be raised by taxes (the Appropriation), by the total value of the assessed property in the Grand List in the District subject to the District tax under this article.

Sec. 15-21. Notification

In the first year of assessment, the Board of Listers shall send a notice in writing of the value of the property to be assessed to the owner of record. In subsequent years the Town will not send a notice unless the value of the assessed property on the Grand List, or the owner of record has changed.

Sec. 15-22. Setting Rate

The Selectboard shall set the District tax rate at the same time, or as close as possible to the time, that the Board sets the Town tax rate.

Sec. 15-23. Payment

Payment shall be due on the same date that other taxes are due and in the installment format as may be determined by the voters at Town Meeting. For the Town fiscal year beginning July 1, 2005 the installment payment due dates may vary from the date other taxes are due.

Sec. 15-24. Lien and Penalties

District taxes shall be a lien on the properties when assessed and shall continue until the tax is paid, or the lien is otherwise discharged by operation of law. In addition this assessment shall be subject to penalties and interest as are charged to any tax payments not paid on the due date.

Sec. 15-25. Collection

The Town shall collect District taxes following the procedures established in Town Charter, State Statutes, and procedures adopted by the Selectboard.

Sec. 15-26 Administrative Fees

The Town of Brattleboro reserves the right to charge administrative fees for the collection and disbursement of Downtown Improvement District taxes.

Sec. 15-27 Payment

For the Town fiscal year beginning July 1 only, the District tax payments shall be due in the installment format on dates determined by the voters at Town Meeting.

Sec. 15-28 – 15-29. Reserved

ARTICLE VI. Appeals

Sec. 15-30. Grievances

Any property owner may file a grievance with the Board of Listers and appeal the decision of the Board as provided for in Vermont Statutes Annotated, Title 32 Chapter 131.

Sec. 15-31. Status of Collection of Taxes During Appeal

The filing of any appeal of the determination of the Listers, the Board of Civil Authority and pendency of the appeal shall not vacate the lien on the property assessed, and the owner shall pay the District taxes and continue to pay the said taxes as they become due.

Sec. 15-32 – 15-33. Reserved

ARTICLE VIII. Altering Boundaries or Composition

Sec. 15-34. Process

This Act may be amended for purposes of extending or altering the boundaries or composition of the District. Such amendment process should follow the requirements of the Vermont Downtown Program designation process under 24 V.S.A Chapter 76A.

ARTICLE IX. Severability

Sec. 15-35. Severability

If any section or subsection of this ordinance is declared unconstitutional or otherwise invalid by a Court of competent jurisdiction, such judgment shall not offset the constitutionality or validity of the remaining sections or subsections.

This amendment shall be published in the *Brattleboro Reformer* on the 11th day of June, 2005, and shall become effective on the 2nd day of July, 2005.

Passed and adopted by the Selectboard of the Town of Brattleboro this 7th day of June, 2005.

BRATTLEBORO SELECTBOARD

Stephen A. Steidle, Chair
Greg Worden, Vice Chair
B. Spoon Agavé
Harold Dompier
Kevin J. Yager, Clerk