

ORDINANCE NO. _____ OF 2017

**ORDINANCE OF THE TOWNSHIP OF EAST LAMPETER,
LANCASTER COUNTY, PENNSYLVANIA, SIGNIFYING
INTENT TO ORGANIZE A MUNICIPAL AUTHORITY FOR
THE PURPOSE OF MAKING BUSINESS IMPROVEMENTS
AND TO ESTABLISH A BUSINESS IMPROVEMENT
DISTRICT**

WHEREAS, on January 16, 2017, the Board of Supervisors (the “Board”) for the Township of East Lampeter (the “Township”) approved Resolution 2017-06, which is attached hereto as Exhibit A and made a part hereof¹; and,

WHEREAS, the public process in establishing a Business Improvement District (“BID”), as enumerated in section 2 of Exhibit A has been completed; and,

WHEREAS, 40% or more of the affected property owners within the proposed BID failed to timely register their disapproval of the Final Plan, in the form attached as Exhibit B²; and,

WHEREAS, the Final Plan provides the administrative body to govern and administer the BID (“BID Authority”) will be a municipal authority to be established by the Township pursuant to the Municipal Authorities Act, Act of June 19, 2001, P.L. 287, No. 22 (53 Pa. C.S. §5601 *et. seq.*) (“MA Act”); and,

WHEREAS, the Board is authorized, pursuant to section 5(f)(2) of the Pennsylvania Neighborhood Improvement District Act (Act 2000 130 or “the BID Act”), 73 P.S. § 835(f)(2), to enact a municipal ordinance establishing a BID; and,

WHEREAS, the Board is authorized, pursuant to section 6 of the BID Act, 73 P.S. § 836, to designate a BID Authority established under the MA Act as the BID management association; and

¹ Editor’s Note: Exhibit A is on file in the office of the Township Manager.

² Editor’s Note: Exhibit B is on file in the office of the Township Manager.

WHEREAS, the Board is authorized, pursuant to sections 7(a)(8)(iii) and 7(b)(1), and as the term is defined in section 3 of the BID Act 73 P.S. §§ 837(a)(8)(iii), 837(b)(1) and 833, to levy and assess a Special Assessment Fee (“Assessment”);

NOW, THEREFORE, in consideration of the above recitals which are incorporated herein by reference and made part of this Ordinance, the Board of Supervisors of East Lampeter Township, Lancaster County, Pennsylvania, in lawful session duly assembled, hereby ENACTS and ORDAINS as follows:

ARTICLE I
Business Improvement Authority

Section 1. Organization of the Authority.

The Board of Supervisors (the “Board”) for the Township of East Lampeter (the “Township”), Lancaster County, Pennsylvania, constituting the governing body of the Township, finds that it is desirable for the Township to improve the business district located therein and intends to organize a municipal authority under the MA Act for the purpose of providing business improvement and administrative services to benefit the Business Improvement District located in the Township of East Lampeter, which is defined in the Final Plan (Exhibit B of this Ordinance) as the service area, map and list of properties shown on Exhibits A, B and C, respectively, of the Final Plan.

Section 2. Name of the Authority.

The name of the Authority shall be the “Lincoln Highway Business Improvement District Authority.”

Section 3. Fiscal Year

The annual fiscal year of the Authority shall begin on the first day of January and end on the thirty-first day of December of each year.

Section 4. Articles of Incorporation.

The proposed Articles of Incorporation of the Lincoln Highway Business Improvement District Authority (“BID Authority”), in the form attached as Exhibit C and made a part hereof, are hereby approved by the Board.³

Section 5. Appointment of Members.

The first members of the Board of the BID Authority named in the proposed Articles of Incorporation are hereby specifically appointed members of said Board (the “Board Members”) for the terms and offices set forth after their names.

Section 6. Execution of Articles of Incorporation.

The President of the Board is hereby authorized and directed to execute the Articles of Incorporation on behalf of the Township. The Secretary of the Township is authorized and directed to attest the President’s signature to the Articles of Incorporation. The Secretary is further authorized to publish notice of intention to file the Articles of Incorporation once in the legal periodical of Lancaster County and once in a newspaper of general circulation in Lancaster County and to file the Articles of Incorporation, a certified copy of this article, and proofs of publication of both the notice of the public meeting and the notice of intention to file said Articles of Incorporation, along with the required filing fee, with the Secretary of the Commonwealth of Pennsylvania.

Section 7. Payment of fee.

The Treasurer of the Township is authorized to appropriate from the general treasury of the Township the amount necessary to pay the filing fee referenced in Section 5.

ARTICLE II
Business Improvement District

Section 8. Establishment and Name of the District.

In accordance with the Neighborhood Improvement District Act⁴ (“BID Act”), the Lincoln Highway Business Improvement District (“LH BID”) is established for the purpose of providing

³ Editor’s Note: Exhibit C is on file in the office of the Township Manager.

⁴ Editor’s Note: See 73 P.S. § 831 *et seq.*

business improvement and administrative services to benefit the LH BID located in the Township of East Lampeter, which is defined in the Final Plan (Exhibit B of this Ordinance) as the service area, map and list of properties shown on Exhibits A, B and C, respectively, of the Final Plan.

Section 9. Fiscal Year

The annual fiscal year of the LH BID shall begin on the first day of January and end on the thirty-first day of December of each year.

Section 10. Adoption of the Neighborhood Improvement District Final Business Plan.

The BID Final Plan, in the form attached as Exhibit B and made a part hereof, is hereby adopted by Board.⁵

Section 11. Appointment of the managing authority.

The managing authority of the LH BID established herein, with all the rights and powers of a neighborhood improvement management association as defined under the aforementioned BID Act, shall be the BID Authority.

Section 12. Assessment.

The BID Authority is empowered to impose the Assessment annually, subject to the following limitations:

- (a) The Assessment shall not be imposed on owner-occupied residential property.
- (b) The Assessment shall not be imposed on tax-exempt property, but tax-exempt property owners are permitted and may be encouraged to provide in-kind services and/or financial contributions to the BID Authority.
- (c) The Assessment shall be calculated by the taxable assessed value as of January 1 of the fiscal year times the established Assessment millage rate.

⁵ Editor's Note: Exhibit B is on file in the office of the Township Manager.

- (d) The Assessment millage rate levied for any fiscal year shall not exceed the estimated cost of the programs, improvements and services for the same fiscal year as established in an annual budget adopted by the BID Authority.
- (e) The Assessment millage rate levied for any fiscal year shall not exceed fifty percent (50%) of the Township real estate tax millage rate for the same fiscal year.
- (f) Notice of the annual Assessment shall be issued and delivered to the property owner on or about the same time as notice of the annual Township real estate tax notice.
- (g) Property owners subject to the payment of Assessment shall be entitled to a discount from the amount of such Assessment upon making payment of the whole amount thereof within two months after the date of the Assessment notice of the same per centum as established by the Township for payment of the annual Township real estate tax within the same time period.
- (h) Property owners who shall fail to make payment of any the Assessment for four months after the date of the Assessment notice shall be charged a penalty of the same per centum as established by the Township for payment of the annual Township real estate tax for four months after the date of the tax notice, which penalty shall be added to the Assessment for collection purposes.

Section 13. Collection authority.

- (a) The BID Authority shall be responsible for the collection of the annual Assessment, unless the BID Authority requests that those responsibilities be handled by the Township or the County. Any necessary liens for nonpayment of property assessment fees shall be imposed as set forth in the BID Act.
- (b) In the event the Township undertakes the responsibility for the collection of annual Assessment pursuant to subsection (a) above, the Board of Supervisors may appoint a tax collector, who may be different from the tax collector responsible for Township real estate tax, to manage the collection of the Assessment and to enter into an

agreement with the LH BID, in the form approved by the Township Solicitor, which agreement shall include the following:

- 1) A description of the respective duties and responsibilities of the Township and the BID Authority with respect to the LH BID as provided in the final plan approved under § 10 of this Ordinance.
- 2) An agreement that the Township will maintain within the LH BID the same level of municipal programs and services that were provided within the LH BID before establishment.
- 3) The tax collector of the Assessment will be responsible for the collection of all Assessments levied within the LH BID and disbursing the funds to the BID Authority.
- 4) An Assessment which is in default shall be charged interest and penalties in the same manner and amount as a default in the payment of the Township real estate tax.
- 5) Liens for nonpayment of Assessments and related interest and penalties shall be filed in the same manner as liens are filed for nonpayment of the Township real estate tax.

Section 14. Termination.

The LH BID shall terminate on December 31, 2022. The LH BID may be continued beyond that date if the Township reenacts this Ordinance following a review of the LH BID and the programs and services provided by the BID Authority within the LH BID.

ARTICLE III
General Provisions

Section 15. Further action.

The proper officers of the Township are hereby severally authorized and empowered on behalf of the Township to execute any and all papers and documents and to do or cause to be done any and

all acts and things necessary or appropriate for the implementation of this Ordinance, the organization of the BID Authority in accordance with the MA Act and the establishment of the LH BID in accordance with the BID Act.

Section 16. Severability.

If any sentence, clause, section, article or part of this Ordinance is found to be invalid, unconstitutional, illegal, for any reason, such invalidity, unconstitutionality or illegality shall not affect or impair any of the remaining sections, articles, clauses, parts or provisions of this Ordinance. The Ordinance shall be interpreted and applied as if said invalid, unconstitutional or illegal provision had not been part of the same and it is the intent of the Board of Supervisors that this Ordinance would have been adopted without such invalid, unconstitutional or illegal provision or clause or part thereof.

Section 17. Effective date.

This Ordinance shall become effective five (5) days after enacted.

Duly ordained and enacted by the Supervisors of the Township of East Lampeter, Lancaster County, Pennsylvania, this ____ day of _____, 2017.

BOARD OF SUPERVISORS OF
EAST LAMPETER TOWNSHIP

By: _____
(Vice) Chairman

I, Ralph M. Hutchison, Secretary of the Board of Supervisors of East Lampeter Township, Lancaster County, Pennsylvania, hereby certify that the foregoing is a true and correct copy of an ordinance duly adopted at a legally constituted meeting of the Board of Supervisors of East Lampeter Township held on _____, 2017, at which meeting a quorum was present and voted in favor thereof.

Ralph M. Hutchison, Secretary