

Legislation Text

File #: 170468, **Version:** 1

Establishing a business improvement district encompassing certain existing and future hotel properties within the boundaries of the City of Philadelphia, to be known as the Philadelphia Hospitality Improvement Levy District (the "District"); designating the Philadelphia Hospitality Improvement Levy District Corporation to serve as Neighborhood Improvement District Management Association (the "NIDMA") for the District; approving a plan for the District, including a list of proposed programs and services related to the development and promotion of the hotel and tourism industry in the City and County of Philadelphia and their estimated cost; and providing for special assessment fees to be levied on affected property owners within the District to fund such programs and services; authorizing the Director of Commerce, on behalf of the City, to execute an agreement with the NIDMA for the District; and authorizing the NIDMA to assess affected property owners within the District and collect or cause to be collected special assessment fees to be used in accordance with the approved plan; all in accordance with the provisions of the Community and Economic Improvement Act.

WHEREAS, Council of the City of Philadelphia is authorized by the Community and Economic Improvement Act, Act of December 21, 1998, P.L. 1307, No. 174 (53 P.S. §18101 *et seq.*), as heretofore amended, including by Act of May 24, 2016, No. 32 and the Act of May 24, 2016, No. 28 and as the same may be further amended, restated, or supplemented from time to time (as so amended, the "Act"), to establish, by ordinance, business improvement districts and to designate certain entities to impose special assessment fees and administer programs and services within such districts in order "to promote and enhance more attractive and safer commercial, industrial, residential and mixed-use neighborhoods; economic growth; increased employment opportunities; and improved commercial, industrial, business districts and business climates;" and

WHEREAS, The purpose of this Ordinance is to establish a business improvement district encompassing certain hotels, and properties anticipated to contain hotels, within the boundaries of the City, to be known as the "Philadelphia Hospitality Improvement Levy District" and to ensure that all actions required by the Act to establish such a district have been taken before the enactment of this Ordinance; and

WHEREAS, Special assessment fees are proposed to be imposed on hotels within the District by the NIDMA to fund (i) supplemental programs, services and improvements related to the development and promotion of the hotel and tourism industry in the City and (ii) administrative expenses of the District; and

WHEREAS, Special assessment fees are proposed to be imposed and collected on certain hotels within the City, which special assessment fee shall be levied upon the properties within the District on which such hotels operate and which are benefited by the services authorized herein; and

WHEREAS, Special assessment fees imposed and collected upon such properties shall be equitably apportioned among the hotels based upon a percentage of gross short-term guest sleeping room rental revenue as determined by the NIDMA's board of directors in accordance with the NIDMA's by-laws and the final plan approved under Section 4 of this Ordinance; and

WHEREAS, All procedures required by the Act for establishment of the District have been followed; in particular, more than forty-five (45) days have elapsed from the last public hearing required by the Act, and the

Clerk of Council has not received objections filed by owners of one-third or more of the benefited properties or affected property owners whose property valuation as assessed for taxable purposes amounts to one-third or more of the total property valuation within the proposed boundaries of the District; now, therefore

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

1. In accordance with the provisions of the Act, a business improvement district is hereby established encompassing all hotel properties, defined as properties on which a for-profit business is operating, or is anticipated to be operating during the life of the District Plan, within the boundaries of the City that furnishes fifty or more rooms for rent on a nightly basis, as set forth in the Plan attached hereto. The district shall be known as the Philadelphia Hospitality Improvement Levy District (the “District”).

2. Philadelphia Hospitality Improvement Levy District Corporation is hereby designated as the Neighborhood Improvement District Management Association (the “NIDMA”) for the District.

3. The NIDMA shall have any and all powers authorized under the Act to levy, collect and enforce special assessment fees on affected property owners for the purpose of providing additional supplemental programs, services and improvements pursuant to the Act.

4. Council hereby approves as the final plan for the District the plan set forth in Exhibit “A” attached hereto. The NIDMA is hereby authorized to impose and collect special assessment fees on all properties within the District on which hotels with fifty or more rooms operate and which are benefited by the services authorized herein in accordance with the provisions of the final plan and the provisions of the Act.

5. The Director of Commerce, on behalf of the City, is hereby authorized to enter into an agreement with the NIDMA, in a form approved by the City Solicitor, which agreement shall include the following provisions:

(a) A detailed description of the respective duties and responsibilities of the City and of the NIDMA with respect to the District as set forth in the final plan approved under Section 4;

(b) A requirement that the City will maintain within the District the same level of municipal programs and services that were provided within the District before its establishment;

(c) A “sunset provision” under which the agreement will terminate on December 31, 2022. The agreement may not be renewed unless the District is continued beyond that date in accordance with the sunset provisions of Section 6 of this Ordinance; and

(d) The NIDMA’s agreement to be responsible for the calculation, imposition and collection of all special assessment fees levied within the District and the City’s agreement to impose and enforce liens for nonpayment of such special assessment fees as set forth in the Act at 53 P.S. §18107(a)(10); provided that the agreement may include a provision wherein the City may designate the NIDMA (or its designee) as agent for the City to perform the City’s responsibility to impose and enforce liens for nonpayment of special assessment fees on behalf of the City and under its authority.

(e) Any special assessment fees levied by the NIDMA shall be the sole responsibility of the affected property owner. The City shall not be liable for any special assessment fees due.

(f) The NIDMA shall agree that it shall not seek to impose liens, or ask the City to impose liens, resulting from the nonpayment of special assessment fees that would exceed in priority liens related to any City claims or judgments, whether based on “municipal claims,” as such term is defined in the Municipal Claims and Tax Lien Act, 53 P.S. §7101 through §7505 or otherwise resulting from non-payment of ad valorem real estate taxes. The NIDMA shall agree further that no lien that is filed shall take priority over any City liens.

(g) The NIDMA shall have no right to file a lien against any City property interest in connection with any unpaid special assessment fees.

6. The District shall terminate on December 31, 2022. The District may be continued beyond that date only if Council enacts a new ordinance following a review of the District and the programs and services provided by the NIDMA within the District.

The same process required to establish the District must be followed to continue the District beyond the expiration date.

7. The Chief Clerk shall keep on file the plan referred to as Exhibit "A" in Section 4 of this Ordinance, and all accompanying documents referenced in Exhibit "A", and shall make them available for inspection by the public during regular office hours.