

City of Red Bank

Ruth Jenó
Acting Mayor

Tim Thornbury
City Manager

BOARD OF COMMISSIONERS' MEETING

Agenda
June 16, 2020
6:00 p.m.

I. Call to Order – Mayor Ruth Jenó

II. Roll Call – City Manager

Mayor Jenó _____, Commissioner Howell _____, Commissioner LeCompte _____,
Commissioner Rose _____

III. Invocation –

IV. Pledge of Allegiance –

V. Consideration of the Minutes for approval or correction:

- A. June 2, 2020 Agenda Work Session
- B. June 2, 2020 Commission Meeting

VI. Communication from Mayor Ruth Jenó

VII. Commissioner's Report

- A. Commissioner Tyler Howell
- B. Commissioner Ed LeCompte
- C. Commissioner Carol Rose

VIII. City Manager's Report

IX. PUBLIC HEARINGS

There are two Public Hearings:

- 1) Rezoning Request for 14 Kingston St. Map Tax Parcel 118A F 004 from R-1 Residential to R-T/Z Residential Townhouse Zero Lot Line.
- 2) Special Exceptions Permit for a revised Planned Unit Development plan For Midvale Highlands

X. Unfinished Business –

- A. **ORDINANCE NO. 20-1170 - AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, ADOPTING THE ANNUAL BUDGET AND TAX RATE OF \$1.39, FOR THE FISCAL YEAR BEGINNING JULY 1, 2020 AND ENDING JUNE 30, 2021 (SECOND AND FINAL READING)**

XI. New Business

- A. **ORDINANCE NO. 20-1171 - AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, AMENDING THE ZONING ORDINANCE AND MAPS OF THIS CITY TO REZONE PROPERTY LOCATED AT 14 KINGSTON STREET, HAMILTON COUNTY MAP TAX PARCEL 118A F 004, FROM R-1 RESIDENTIAL TO R-T/Z TOWNHOUSE / ZERO LOT LINE RESIDENTIAL, SUBJECT TO CONDITIONS (FIRST READING)**
- B. **ORDINANCE NO. 20-1172 – AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO AMEND THE ZONING ORDINANCE NO. 15-1020, CODIFIED AT RED BANK CITY CODE, TITLE 14, CHAPTER VII, SECTIONS 14-701 ET.SEQ. (FIRST READING)**
- C. **ORDINANCE NO. 20-1173 – AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE TO AMEND THE ZONING ORDINANCE NO. 15-1020, CODIFIED AT TITLE 14 OF THE RED BANK CITY CODE, CHAPTER IV, SECTION 14-402 AND CHAPTER V, SECTION 14-501 AND SECTION 14-502 AS RELATES TO “PERMITTED USES” IN THE ZONES THEREIN SPECIFIED (FIRST READING)**

D. RESOLUTION NO. 20-1346 – A RESOLUTION OF THE CITY OF RED BANK, TENNESSEE, AUTHORIZING THE ISSUANCE OF A SPECIAL EXCEPTIONS PERMIT FOR THE MIDVALE HIGHLANDS PLANNED UNIT DEVELOPMENT, PURSUANT TO CONDITIONS

E. RESOLUTION NO. 20-1347 – A RESOLUTION OF THE CITY OF RED BANK, TENNESSEE, AUTHORIZING THE ISSUANCE OF A SPECIAL EXCEPTIONS PERMIT TO IMMUNOTEK BIOCENTERS, 2101 DAYTON BOULEVARD, PURSUANT TO CONDITIONS

F. RESOLUTION NO. 20-1148 – A RESOLUTION OF THE CITY OF RED BANK, TENNESSEE, AUTHORIZING AN AGREEMENT BETWEEN THE CITY OF RED BANK, TENNESSEE AND SOUTHEAST TENNESSEE DEVELOPMENT DISTRICT FOR PROVIDING LOCAL PLANNING ADVISORY SERVICES

XII. Citizen Comments from Red Bank Citizens about Red Bank business (3 minute limit)

XIII. Adjournment

City of Red Bank

Ruth Jenó
Acting Mayor

COMMISSIONERS AGENDA WORK SESSION RED BANK CITY HALL

Tim Thornbury
City Manager

Minutes
June 2, 2020
5:00 p.m.

The Board of Commissioners met in a public and advertised Agenda Work Session on June 2, 2020 at 5:00 p.m. To better comply with social distancing requirements, the meeting was held at the Joe Glasscock Community Center. The purpose of the meeting was to receive information on upcoming business items. Those in attendance were Acting Mayor Ruth Jenó, Commissioner Tyler Howell, Commissioner Ed LeCompte and Commissioner Carol Rose. Also present were City Manager Tim Thornbury, City Attorney Arnold Stulce, Police Chief Dan Seymour, Fire Chief Mark Mathews, Finance Director John Alexander, City Recorder Ruth Rohen and those listed on Exhibit A.

1. City Manager Thornbury advised that there is a Public Hearing and first reading on the agenda tonight for the fiscal year 2021 operating budget.
2. City Manager Thornbury advised that there is a resolution on the agenda tonight to place a moratorium upon the issuance of permits and licenses relating to adult oriented establishments. He explained that the city is in the process of reviewing its current ordinances relating to adult oriented establishments and that the planning commission will be reviewing and studying the ordinance also.
3. City Manager Thornbury advised that there is a public hearing and first reading of an ordinance on the June 16th meeting to rezone property at 14 Kingston Street from R-1 residential to R-T/Z residential townhomes zero lot line. He explained that the planning commission reviewed this item and recommended approval.
4. City Manager Thornbury advised that there will be a public hearing and a resolution on the June 16th meeting to consider a special exceptions permit for the Midvale Highlands PUD. He explained that this was previously approved but that the plat was not recorded within the 12 month period required by the zoning ordinance, which has caused the necessity for approval again. He explained that the planning commission recommended approval of the special exceptions permit.
5. City Manager Thornbury advised that there will be a resolution on the June 16th meeting in regard to a special exceptions permit for Immunotek Bio-Centers, which is considering locating at 2101 Dayton Blvd. He advised that this business is a permitted use in the C-1 zone but that it requires a special exceptions permit because the proposed location abuts a residential zone. Several questions by commissioners addressed by City Manager Thornbury and City Attorney Stulce.
6. City Manager Thornbury advised that the gas company will begin gas line work on Morrison Springs Rd. during the week of June 15th. He advised that paving will be done once they are complete.

The meeting was adjourned at 5:50 p.m.

Mayor

Date

City Recorder

Date

BOARD OF COMMISSIONERS' MEETING

Minutes
June 2, 2020
6:00 p.m.

- I. **Call to Order** – Acting Mayor Jenó called the meeting to order at 6:00 p.m. This meeting was held at the Joe Glasscock Community Center to better follow social distancing requirements. The location of the meeting had been duly advertised in a paper of local circulation.
- II. **Roll Call** – City Manager Tim Thornbury called the roll. Those present were Acting Mayor Ruth Jenó, Commissioner Tyler Howell, Commissioner Ed LeCompte and Commissioner Carol Rose. Also present were City Attorney Arnold Stulce, Police Chief Dan Seymour, Fire Chief Mark Mathews, Finance Director John Alexander, City Recorder Ruth Rohen and those listed on Exhibit A.
- III. **Invocation** – Commissioner Howell gave the Invocation.
- IV. **Pledge of Allegiance** – Fire Chief Mark Mathews led the Pledge of Allegiance.
- V. **Consideration of the Minutes for approval or correction:**
 - A. **May 19, 2020 Commission Meeting**
 - B. **May 19, 2020 Agenda Work Session**Commissioner Howell made a motion to approve both sets of minutes as printed, second by Commissioner Rose. The minutes were approved with all Commissioners voting “yes”.
- VI. **Communication from Acting Mayor Jenó**
 - Congratulated City Attorney Stulce on the birth of his grandchild..
 - Thanked the Department Heads and City Manager for the monthly departmental reports.
 - Recently spoke with County Commissioner Chip Baker. He was asking how everything was going in Red Bank and offered his assistance if ever needed.
- VII. **Commissioners Report**
 - Commissioner Tyler Howell**
 - Thanked Department Heads and staff for their work on the FY 2021 budget.
 - Thanked all departments of the city for their hard work.
 - Commissioner Ed LeCompte**
 - Thanked Department Heads and other Commissioners for their work during the budget process.
 - Commissioner Carol Rose**
 - Asked everyone to pray for the country during these difficult times.
 - Mentioned several locally owned businesses and encouraged everyone to shop local.
- VIII. **City Manager's Report**
 - Thanked the Department Heads for their hard work on this year's budget.
- IX. **Public Hearing**

City Manager Thornbury gave an overview of the proposed budget. He advised that the proposed budget totals \$6,784,297 and includes the purchase of several vehicles and pieces of equipment for the various departments of the city. He explained that the budget contains a 2% cost of living increase for employees. He advised that there is not a proposed property tax increase and that

the property tax rate will remain at \$1.39 for Fiscal Year 2021, but that there is a proposed storm water fee increase of \$4.00 per household. Mayor Jenó asked for commission and citizen comments or questions, of which there were none. After no further comments the Public Hearing was closed.

X. Unfinished Business –

A. ORDINANCE NO. 20-1169 – AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO AMEND FY 2020 OPERATING BUDGET YEAR END APPROPRIATION OVERAGES (SECOND AND FINAL READING)

Finance Director Alexander advised that this ordinance will authorize budget amendments to the FY 2020 budget for the General Fund and Drug Fund. He explained that these amendments are for previously approved purchases, grants and projects that were not completed during the previous fiscal year. He advised that the amendments total \$2,323,278.02 with various revenue streams. Commissioner LeCompte made a motion to approve the ordinance, second by Commissioner Rose. There were no citizen comments.

Roll Call Vote: Acting Mayor Jenó “yes”, Commissioner Howell “yes”, Commissioner LeCompte “yes”, Commissioner Rose “yes”. Ordinance No. 20-1169 was approved on second and final reading with all Commissioners voting “yes”.

XI. New Business –

A. ORDINANCE NO. 20-1170 – AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, ADOPTING THE ANNUAL BUDGET AND TAX RATE OF \$1.39 FOR THE FISCAL YEAR BEGINNING JULY 1, 2020 AND ENDING JUNE 30, 2021 (FIRST READING)

Mayor Jenó advised that this item was discussed during the Public Hearing earlier tonight. City Manager Thornbury gave an overview of the proposed budget. He advised that the proposed budget totals \$6,784,297 and includes the purchase of several vehicles and pieces of equipment for the various departments of the city. He explained that the budget contains a 2% cost of living increase for employees. He advised that there is not a proposed property tax increase and that the property tax rate will remain at \$1.39 per \$100 of assessed value on all real property located in the city for Fiscal Year 2021, but that there is a proposed storm water fee increase of \$4.00 per household. Commissioner Howell made a motion to approve the ordinance, second by Commissioner LeCompte. There were no citizen comments. **Roll Call Vote: Acting Mayor Jenó “yes”, Commissioner Howell “yes”, Commissioner LeCompte “yes”, Commissioner Rose “yes”.** Ordinance No. 20-1170 was approved on first reading with all Commissioners voting “yes”.

B. RESOLUTION NO. 20-1345 – A RESOLUTION OF THE CITY OF RED BANK DECLARING A MORATORIUM UPON THE ACCEPTANCE, PROCESSING OR ISSUANCE OF ANY LICENSE AND/OR PERMIT OF OR WITH RESPECT TO THE LOCATION OR OPERATION OF ANY ADULT ORIENTED ESTABLISHMENT WITHIN THE CITY OF RED BANK, TENNESSEE

City Manager Thornbury explained that the city is in the process of reviewing and updating its adult oriented establishment ordinances, which have not been reviewed or updated in many years. He explained that if this resolution is approved it will place a moratorium upon the acceptance and/or issuance of licenses and permits relating to adult oriented establishments for a period of time set out in the resolution. Commissioner Rose made a motion to approve the resolution, second by Commissioner LeCompte. There were no citizen comments. Resolution No. 20-1345 was approved with all Commissioners voting “yes”.

XII. Citizen Comments – None

XIII. Adjournment

The meeting was adjourned at 6:12 p.m.

Mayor

Date

ORDINANCE NO. 20-1170

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE
ADOPTING THE ANNUAL BUDGET AND TAX RATE OF \$1.39 FOR THE FISCAL
YEAR BEGINNING JULY 1, 2020 AND ENDING JUNE 30, 2021**

WHEREAS, *Tennessee Code Annotated* Title 9 Chapter 1 Section 116 requires that all funds of the State of Tennessee and all its political subdivisions shall first be appropriated before being expended and that only funds that are available shall be appropriated; and

WHEREAS, the Municipal Budget Law of 1982 requires that the governing body of each municipality adopt and operate under an annual budget ordinance presenting a financial plan with at least the information required by that state statute, that no municipality may expend any moneys regardless of the source except in accordance with a budget ordinance and that the governing body shall not make any appropriation in excess of estimated available funds; and

WHEREAS, the Board of Mayor and Commissioner's has published the annual operating budget and budgetary comparisons of the proposed budget with the prior year (actual) and the current year (estimated) in a newspaper of general circulation not less than ten (10) days prior to the meeting where the Board will consider final passage of the budget.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF MAYOR AND COMMISSIONERS OF THE CITY OF RED BANK, TENNESSEE AS FOLLOWS:

SECTION 1: That the governing body projects anticipated revenues from all sources and appropriations and planned expenditures for each department, boards, office or other agency of the municipality, herein presented together with the actual annual receipts and expenditures of the last preceding fiscal year and the estimated annual expenditures for the current fiscal year, and from those revenues and unexpected and unencumbered funds as follows for fiscal year 2021, and including the projected ending balances for the budget year; the actual ending balance for the most recent ended fiscal year and the estimated ending fund balances for the current fiscal year:

GENERAL FUND	Actual FY 2019	Estimated FY 2020	Budget FY 2021
<u>Cash Receipts</u>			
Local Taxes	\$ 5,046,577.00	\$ 4,950,015.00	\$ 4,918,300.00
State Shared Taxes	\$ 1,086,335.00	\$ 1,071,634.00	\$ 1,018,500.00
Other Revenue Sources	\$ 459,149.00	\$ 356,742.00	\$ 284,798.00
Total Cash Receipts	\$ 6,592,061.00	\$ 6,378,391.00	\$ 6,221,598.00
<u>Appropriations</u>			
Judicial	\$ 145,014.00	\$ 143,624.00	\$ 146,884.00
Legislative	\$ 77,791.00	\$ 34,370.00	\$ 51,705.00
Finance & Administration	\$ 673,550.00	\$ 636,313.00	\$ 661,932.00
Insurance	\$ 849,264.00	\$ 924,201.00	\$ 950,400.00
Police	\$ 1,842,345.00	\$ 1,771,732.00	\$ 1,943,151.00

Fire	\$ 1,338,841.00	\$ 1,245,627.00	\$ 1,412,734.00
Public Works	\$ 2,398,148.00	\$ 1,361,671.00	\$ 1,517,466.00
Parks	\$ 86,010.00	\$ 108,241.00	\$ 100,025.00
Total Appropriations	\$ 7,410,963.00	\$ 6,225,779.00	\$ 6,784,297.00
Surplus / (Deficit)	\$ (818,902.00)	\$ 152,612.00	\$ (562,699.00)
Beginning Fund Balance	\$ 7,773,499.00	\$ 6,954,597.00	\$ 7,107,209.00
Ending Fund Balance	\$ 6,954,597.00	\$ 7,107,209.00	\$ 6,544,510.00

STATE STREET AID	Actual FY 2019	Estimated FY 2020	Budget FY 2021
<u>Cash Receipts</u>			
State Highway and Street Fund	\$ 407,066.00	\$ 426,084.00	\$ 400,000.00
Interest Earnings	\$ 24,874.00	\$ 22,336.00	\$ 10,000.00
Insurance Recovery	\$ 10,811.00	\$ 2,100.00	\$ -
Total Cash Receipts	\$ 442,751.00	\$ 450,520.00	\$ 410,000.00
<u>Appropriations</u>			
Operation	\$ 144,932.00	\$ 129,244.00	\$ 179,150.00
Debt Service	\$ 57,381.00	\$ 178,102.00	\$ 176,022.00
Capital	\$ 109,459.00	\$ 14,057.00	\$ 32,850.00
Total Appropriations	\$ 311,772.00	\$ 321,403.00	\$ 388,022.00
Surplus / (Deficit)	\$ 130,979.00	\$ 129,117.00	\$ 21,978.00
Beginning Fund Balance	\$ 1,251,709.00	\$ 1,382,688.00	\$ 1,511,805.00
Ending Fund Balance	\$ 1,382,688.00	\$ 1,511,805.00	\$ 1,533,783.00

SOLID WASTE	Actual FY 2019	Estimated FY 2020	Budget FY 2021
<u>Cash Receipts</u>			
Sanitation Charges	\$ 922,917.00	\$ 905,304.00	\$ 900,000.00
Interest Earnings	\$ 11,607.00	\$ 10,725.00	\$ 10,000.00
Insurance Recovery	\$ -	\$ -	\$ -
Other Revenue Sources	\$ 36,861.00	\$ 3,867.00	\$ -
Total Cash Receipts	\$ 971,385.00	\$ 919,896.00	\$ 910,000.00
<u>Appropriations</u>			
Personnel	\$ 399,410.00	\$ 429,535.00	\$ 449,797.00
Operations	\$ 278,561.00	\$ 316,026.00	\$ 318,975.00
Debt Service	\$ -	\$ -	\$ -
Capital	\$ 22,845.00	\$ 190,000.00	\$ 555,000.00
Total Appropriations	\$ 700,816.00	\$ 935,561.00	\$ 1,323,772.00
Surplus / (Deficit)	\$ 270,569.00	\$ (15,665.00)	\$ (413,772.00)
Beginning Fund Balance	\$ 739,293.00	\$ 1,009,862.00	\$ 994,197.00

Ending Fund Balance	\$ 1,009,862.00	\$ 994,197.00	\$ 580,425.00
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STORMWATER FUND	Actual FY 2019	Estimated FY 2020	Budget FY 2021
<u>Cash Receipts</u>			
Property Taxes (Prior Year)	\$ -	\$ -	\$ -
Interest / Penalty	\$ 1,433.00	\$ 887.00	\$ 500.00
Interest Earnings	\$ 3,585.00	\$ 2,693.00	\$ 1,700.00
Stormwater Fees	\$ 266,747.00	\$ 273,262.00	\$ 310,000.00
Total Cash Receipts	\$ 271,765.00	\$ 276,842.00	\$ 312,200.00
<u>Appropriations</u>			
Personnel	\$ 138,063.00	\$ 117,893.00	\$ 122,631.00
Operations	\$ 104,788.00	\$ 118,394.00	\$ 118,910.00
Capital	\$ 35,950.00	\$ 426,881.00	\$ 70,600.00
Total Appropriations	\$ 278,801.00	\$ 663,168.00	\$ 312,141.00
Surplus / (Deficit)	\$ (7,036.00)	\$ (386,326.00)	\$ 59.00
Beginning Fund Balance	\$ 361,617.00	\$ 354,581.00	\$ (31,745.00)
Ending Fund Balance	\$ 354,581.00	\$ (31,745.00)	\$ (31,686.00)

DRUG FUND	Actual FY 2019	Estimated FY 2020	Budget FY 2021
<u>Cash Receipts</u>			
Impound Fees	\$ 675.00	\$ -	\$ -
Drug Related Fines	\$ 10,728.00	\$ 3,440.00	\$ 2,000.00
DEA Asset Sharing Pmts	\$ -	\$ 34,155.00	\$ 15,000.00
Interest Earnings	\$ 1,358.00	\$ 1,143.00	\$ 100.00
Sale of Equipment	\$ 17,451.00	\$ 10,645.00	\$ 2,500.00
Insurance Recovery	\$ 1,240.00	\$ -	\$ -
Drug Seizures	\$ 46,062.00	\$ 677.00	\$ 15,000.00
Total Cash Receipts	\$ 77,514.00	\$ 50,060.00	\$ 34,600.00
<u>Appropriations</u>			
Operations	\$ 9,683.00	\$ 33,137.00	\$ 8,500.00
Capital	\$ 62,538.00	\$ 7,440.00	\$ 106,940.00
Total Appropriations	\$ 72,221.00	\$ 40,577.00	\$ 115,440.00
Surplus / (Deficit)	\$ 5,293.00	\$ 9,483.00	\$ (80,840.00)
Beginning Fund Balance	\$ 90,689.00	\$ 95,982.00	\$ 105,465.00
Ending Fund Balance	\$ 95,982.00	\$ 105,465.00	\$ 24,625.00

IMPOUND FUND	Actual FY 2019	Estimated FY 2020	Budget FY 2021
<u>Cash Receipts</u>			
Impoundment Charges	\$ -	\$ -	\$ -
Impoundment Fees	\$ 135.00	\$ -	\$ -
Sale of Equipment	\$ 9,202.00	\$ 10,439.00	\$ 10,000.00
Total Cash Receipts	\$ 9,337.00	\$ 10,439.00	\$ 10,000.00
<u>Appropriations</u>			
Operations	\$ 1,782.00	\$ 125.00	\$ 6,750.00
Capital	\$ -	\$ -	\$ -
Total Appropriations	\$ 1,782.00	\$ 125.00	\$ 6,750.00
Surplus / (Deficit)	\$ 7,555.00	\$ 10,314.00	\$ 3,250.00
Beginning Fund Balance	\$ 4,647.00	\$ 12,202.00	\$ 22,516.00
Ending Fund Balance	\$ 12,202.00	\$ 22,516.00	\$ 25,766.00

SEWER FUND	Actual FY 2019	Estimated FY 2020	Budget FY 2021
<u>Cash Receipts</u>			
Interest Earnings	\$ 714.00	\$ 456.00	\$ 100.00
Rent - Sewer Plant	\$ 8,413.00	\$ 8,413.00	\$ 8,413.00
Contributions from WWTA	\$ 492,204.00	\$ 492,204.00	\$ 492,204.00
Total Cash Receipts	\$ 501,331.00	\$ 501,073.00	\$ 500,717.00
<u>Appropriations</u>			
Operations	\$ 492,204.00	\$ 516,595.00	\$ 492,204.00
Total Appropriations	\$ 492,204.00	\$ 516,595.00	\$ 492,204.00
Surplus / (Deficit)	\$ 9,127.00	\$ (15,522.00)	\$ 8,513.00
Beginning Fund Balance	\$ 42,057.00	\$ 51,184.00	\$ 35,662.00
Ending Fund Balance	\$ 51,184.00	\$ 35,662.00	\$ 44,175.00

SECTION 2: At the end of the fiscal year 2020; the governing body estimates fund balances or deficits as follows:

General Fund	\$ 7,107,209.00
State Street Aid Fund	\$ 1,511,805.00
Solid Waste Fund	\$ 994,197.00
Sewer Fund	\$ 35,662.00
Stormwater Fund	\$ (31,745.00)
Drug Fund	\$ 105,465.00
Impound Fund	\$ 22,516.00

SECTION 3: That the governing body herein certifies that the condition of its sinking funds, if applicable, are compliant pursuant to its bond covenants, and recognizes that the municipality has outstanding bonded and other indebtedness as follows:

Debt Principal	Interest Requirements	Debt Authorized and Unissued	Principal Outstanding at June 30
\$ 95,000	\$ 7,605	\$ 0	\$ 2,484,100
\$ 190,000	\$ 60,095		

SECTION 4: During the coming fiscal year (2021) the governing body has pending and planned capital projects with proposed funding as follows:

Proposed Capital Projects	Proposed Amount Financed by Appropriations	Proposed Amount Financed by Debt
\$ 285,487	\$ 285,487	

SECTION 5: No appropriation listed above may be exceeded without an amendment of the budget ordinance as required by the Municipal Budget Law of 1982 T.C.A. Section 6-56-208 et seq.. In addition, no appropriation may be made in excess of available funds except to provide for an actual emergency threatening the health, property or lives of the inhabitants of the municipality and declared by a two-thirds (2/3) vote of at least a quorum of the governing body in accord with Section 6-56-205 of the *Tennessee Code Annotated*.

SECTION 6: Money may be transferred from one appropriation to another in the same fund in an amount of up to \$1,000 by the Finance Director, subject to such limitations and procedures as set by Section 6-56-209 of the *Tennessee Code Annotated*. Any resulting transfers shall be reported to the governing body at its next regular meeting and entered into the minutes.

SECTION 7: A detailed financial plan will be attached to this budget and become part of this budget ordinance. In addition, the published operating budget and budgetary comparisons shown by fund with beginning and ending fund balances and the number of full time equivalent employees required by Section 6-56-206, *Tennessee Code Annotated* will be attached.

SECTION 8: There is hereby levied a property tax of \$1.39 per \$100 of assessed value on all real property located in the City.

SECTION 9: The annual operating and capital budget ordinance and supporting documents shall be submitted to the Comptroller of the Treasury or Comptrollers' Designee for approval if the City has debt issued pursuant to Title 9, Chapter 21, of the Tennessee Code Annotated, within fifteen (15) days of its adoption. This budget shall not become the official budget for the fiscal year until such budget is approved by the Comptroller of the Treasury or Comptroller's Designee, in accordance with Title 9, Chapter 21 of the Tennessee Code Annotated (the "Statutes"). If the Comptroller of the Treasury or Comptroller's Designee determines that the budget does not comply with the Statutes, the Governing Body shall adjust the estimates or make additional tax levies sufficient to comply with the Statutes or as directed by the Comptroller of the Treasury or Comptroller's Designee. If the City does not have such debt outstanding, it will file this annual operating and capital budget ordinance and supporting documents with the Comptroller of the Treasury or the Comptroller's Designee.

SECTION 10: All unencumbered balances of appropriations remaining at the end of the fiscal year shall lapse and revert to the respective fund balances.

SECTION 11: All ordinances or parts of ordinances in conflict with any provision of this ordinance are hereby repealed.

SECTION 12: This ordinance shall take effect July 1, 2020, the public welfare requiring it.

Mayor

ATTESTED:

City Recorder

June 2, 2020

Approved on First Reading

Approval on Second and Final Reading

Approved as to Form:

City Attorney

ORDINANCE NO. 20-1171

AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, AMENDING THE ZONING ORDINANCE AND MAPS OF THIS CITY TO CONDITIONALLY REZONE PROPERTY LOCATED AT 14 KINGSTON STREET FROM R-1 RESIDENTIAL TO R-T/Z TOWNHOUSE/ZERO LOT LINE RESIDENTIAL, SUBJECT TO CERTAIN CONDITIONS

WHEREAS, *Tennessee Code Annotated* (TCA) § 13-7-201 allows municipal governments the authority to regulate land use through zoning of its jurisdictional territory; and

WHEREAS, the Red Bank Municipal Planning Commission has certified zoning districts as provided for in TCA § 13-7-202; and

WHEREAS, TCA §13-7-204 authorizes amendments to the municipal zoning map and provides for that process; and

WHEREAS, the applicant, Josh Barr, who has a contract to purchase the property located at 14 Kingston Street, and has requested that the property located at 14 Kingston Street, Hamilton County Tax Map Parcel No. 118A F 004, depicted herein as Exhibit A and more particularly described herein as Exhibit B, from R-1 Residential zone to R-T/Z Townhouse/Zero Lot Line Residential; and

WHEREAS, the Southeast Tennessee Development District planning staff recommended conditionally approving the request because the additional permitted land uses of the R-T/Z zone would not have a negative impact on adjacent land uses; and

WHEREAS, the Red Bank Planning Commission held an advertised public hearing on this matter on May 21st, 2020; and

WHEREAS, the Red Bank Planning Commission heard and considered all statements favoring or opposing the requested rezoning, including that of the Southeast Tennessee Development District planning staff; and

WHEREAS, the Red Bank Planning Commission on May 21, 2020 has studied the petition in relation to existing zoning and land use and potential patterns of development and finds that if the utilization of the property is not to be attached townhouses, it would not have a negative impact on adjacent land uses, and the Red Bank Planning Commission has recommended approving the request to rezone the property to R-T/Z Townhouse/Zero Lot Line Residential, subject to the restrictions and conditions that the R-T/Z usage shall be limited to Single - Family homes.

WHEREAS, the City Commission, upon notice, held a public hearing in conjunction with the regularly scheduled Commission Meeting on June 16, 2020; and

WHEREAS, the City Commission, having studied the recommendations of the Southeast Tennessee Development District planning staff and of the Red Bank Planning Commission, finds that the requested use, subject to the conditions recommended by the Red Bank Planning Commission, would not have a negative impact on adjacent land uses, is a reasonable extension

of existing zones in the area.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RED BANK,
TENNESSEE, AS FOLLOWS:**

SECTION 1. The Zoning Ordinances and Zoning Maps of this City of Red Bank are hereby amended by conditionally rezoning from R-1 Residential to R-T/Z Townhouse/Zero Lot Line Residential, limited to single-family homes only, the property located at 14 Kingston Street, Tax Map Parcel No. 118A F 004, subject to the following condition:

- a) Attached townhouses shall not be constructed on the property.
- b) If the Owner and Applicant does not accept the limiting conditions and restrictions within sixty (60) days next following approval on second and final reading, the Ordinance shall automatically become null and void.

SECTION 2. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 3. The zoning maps of this city shall be amended so as to conditionally reflect R-TVZ, but subject to the condition that townhouses shall not be a permitted use on this property, for the property described herein above and that said maps make specific reference to this Ordinance, with the restriction noted on the zoning map.

SECTION 4. Every section, sentence, clause, and phrase of this Ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

MAYOR

CITY RECORDER

PASSED ON FIRST READING

PASSED ON SECOND READING AND FINAL READING

APPROVED AS TO FORM:

CITY ATTORNEY

ACCEPTED, ACKNOWLEDGED AND
AGREED AS TO THE LIMITING FACTORS,
CONDITIONS AND REQUIREMENTS HEREOF

ROBERT GARROTT

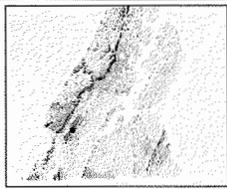
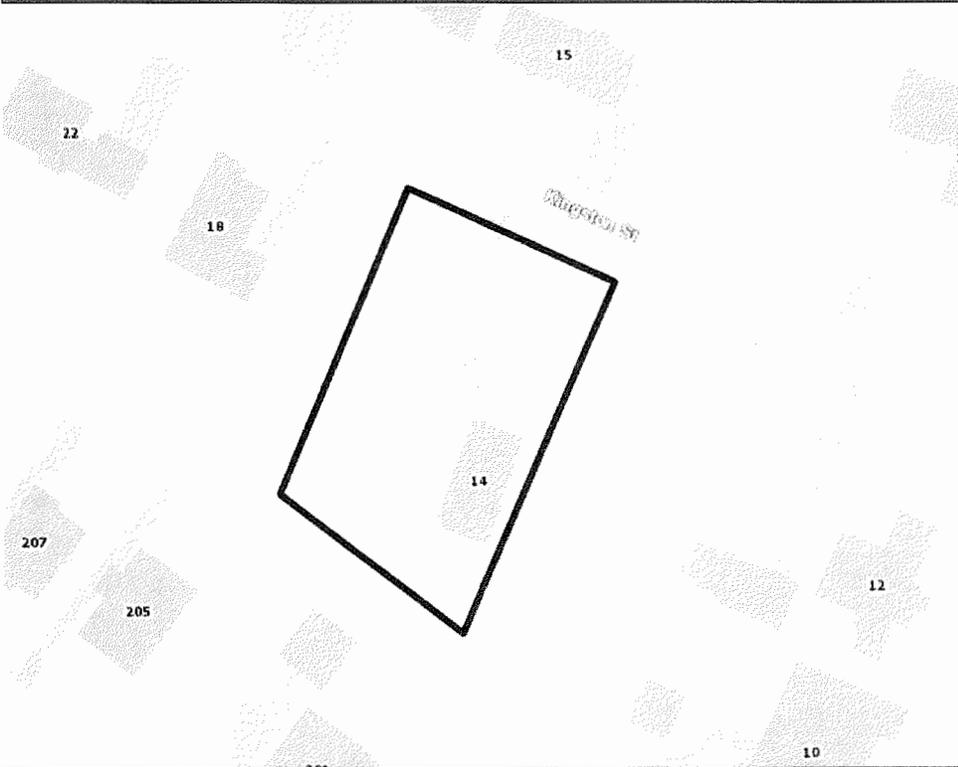
BY: _____
Owner

JOSH BARR

BY: _____
Applicant

EXHIBIT A: PARCEL MAP

14 Kingston Street



- ### Legend
- Parcel
 - Addressing <800
 - County Boundary
 - Recycling Center
 - Healthcare Facilities
 - Emergency Services Locations
 - FIRE
 - MEDIC
 - POLICE
 - Cemeteries
 - Religious Facilities
 - Schools
 - Building Footprints
 - Miscellaneous Structures
 - Driveways
 - Parking
 - Water Bodies
 - Other Water Bodies
 - Recreational Areas
 - Surrounding Hamilton

0 50.00 100.0 Feet
NAD_1983_StatePlane_Tennessee_FIPS_4100_Feet
© Latitude Geographics Group Ltd.

A Disclaimer: This map is to be used for reference only, and no other use or reliance on the same is authorized. This map was automatically generated using HCCGIS Mapping System. Parcel lines are shown for reference only and are not intended for conveyances; nor is it intended to substitute for a legal survey or property abstract.

EXHIBIT B: WARRANTY DEED

BOOK 3395 PAGE 161

File #877209 rs
 Grantee's Address Mail Tax Bills To Map Parcel No.
Robert W. Garrott *John* 118 A F 004
 #14 *Kingston St.*
John Lane, 20116

WARRANTY DEED

IN CONSIDERATION of One (\$1.00) Dollar and other valuable considerations paid the receipt of all of which is hereby acknowledged: WE, ROBERT E. WRIGHT and RAY F. LEWIS hereby declaring that we hold the herein described property as Tenants in Common, and that the same has not been divided by Parcel Agreement or otherwise, do hereby sell, transfer, and convey unto: ROBERT W. GARROTT, unmarried the following described real estate in the Third Civil District of Hamilton County, Tennessee:

Beginning at a stake in the South line of Kingston Street, as shown by Manoney's Subdivision B, as surveyed and mapped by J. A. Lane, C. E., February 5, 1941, which plat is recorded in Plat Book 15, page 26, in the Register's Office Hamilton County, Tennessee; thence South 21 degrees 45 minutes West along the East line of Lot Number Twelve in said Subdivision, a distance of 149 feet to a stake; thence South 54 degrees 25 minutes East a distance of 100 feet to a stake; thence North 21 degrees 45 minutes East a distance of 149 feet, more or less, to a stake in the South line of Kingstons Street; thence North 86 degrees West along the South line of Kingston Street, a distance of 100 feet to the point of beginning. The said lot herein conveyed fronts 100 feet on the South line of Kingston and extends back Southwardly of uniform width along the East line of Lot Number Twelve in said Subdivision a distance of 149 feet, more or less, to the South line of the J. E. Manoney tract of land.

Last recorded Deed and prior title in Book 3312, page 376, said Register's Office.

THIS CONVEYANCE IS MADE SUBJECT TO THE FOLLOWING:

Any governmental zoning and subdivision ordinances or regulations in effect thereon.

Taxes for the year of 1987 are to be prorated between the Grantors and the Grantees of even date herewith.

TO HAVE AND TO HOLD the same unto the said ROBERT W. GARROTT, his heirs and assigns, forever in fee simple. We, covenant that we are lawfully seized and possessed of said real estate, have full power and lawful authority to sell and convey the same; that the title thereto is clear, free and unencumbered except as hereinabove mentioned, and we will forever warrant and defend the same against all lawful claims.

And for sufficient consideration, SHIRLEY A. WRIGHT, wife of ROBERT E. WRIGHT, and ESTHER R. LEWIS, wife of Ray F. Lewis, does hereby join in this instrument for the purpose of disclaiming any right, title and interest they may have if any, to the herein described property.

WITNESS our hands this the 29th day of August, 1987.

Robert E. Wright
ROBERT E. WRIGHT

R. F. Lewis
RAY F. LEWIS

Shirley J. Wright
SHIRLEY J. WRIGHT

Esther R. Lewis
ESTHER R. LEWIS

STATE OF TENNESSEE
COUNTY OF HAMILTON

Before me personally appeared ROBERT E. WRIGHT and wife, SHIRLEY A. WRIGHT to me known (or proved to me on the basis of satisfactory evidence) to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

WITNESS my hand and seal this 28 day of August, 1987.

Linda Wilson
NOTARY PUBLIC

My Commission Expires: My Commission Expires Oct. 4, 1990

STATE OF TENNESSEE
COUNTY OF HAMILTON
KING

Before me personally appeared RAY F. LEWIS and wife, ESTHER R. LEWIS to me known (or proved to me on the basis of satisfactory evidence) to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

WITNESS my hand and seal this 29 day of August, 1987.

Donald J. [Signature]
NOTARY PUBLIC

My Commission Expires: 5-21-91

STATE OF TENNESSEE
COUNTY OF HAMILTON

I (or we) hereby offering this instrument for recording within the meaning of the Statutes of the State of Tennessee, under TCA Code Section 67-4102, Item (5), hereby swear or affirm that the actual consideration for this transfer or value of the property transferred, whichever is greater, is \$ 2,000.00, which amount is equal to or greater than the amount which the property transferred would command at a fair and voluntary sale.

Donald J. [Signature]
AFFIANT

Sworn to and subscribed before me this 28 day of Sept, 1987.

Sarah P. DeFries, Register
NOTARY PUBLIC

My Commission Expires: L. [Signature]

K 1 8 8 5

IDENTIFICATION REFERENCE	SEP 2 9 28 AM '87	SARAH P. DEFRIES REGISTER HAMILTON COUNTY STATE OF TENNESSEE	09/02/87	COMV	21,000.00		
			09/02/87	REGD		4.00	
			09/02/87	CTAX		58.80	
			09/02/87	PFEE		.50	•••65.30

0000

ORDINANCE NO. 20-1172

AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE TO AMEND THE ZONING ORDINANCE NO. 15-120 CODIFIED AT RED BANK CITY CODE TITLE 14, CHAPTER VII, SECTIONS 14-701 et. seq.

WHEREAS, the City of Red Bank finds that protection of the health, safety, and welfare supports the regulation of adult-oriented establishments, and

WHEREAS, in enacting this Ordinance, the Commission considered evidence of secondary negative effects from outside Hamilton County including the Houston, Texas City Council's "Sexually Oriented Business Ordinance Revision Committee Legislative Report" dated January 7, 1997; the Newport News, Virginia "Adult Use Study" dated March 1996; and a "Report to: The American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses" produced by Peter Hech, Ph.D. dated March 31, 1996 ; and

WHEREAS, the Commission also considered evidence of secondary negative effects relating to Hamilton County, including the "Community Protection Committee's Final Report on Vice in Hamilton County with Recommendations" to the Hamilton County Executive and the Board of Commissioners, and the Mayor and the Members of the Chattanooga City including: Broadway Books v. Roberts, 642 F. Supp. 486 (E.D. Tenn. 1986); DLS, Inc. v. City of Chattanooga, 894 F. Supp. 1140 (E.D. Tenn. 1995); and City of Chattanooga v. Cinema 1, Inc., No. E2003-01038-COA-R3-CV, in the Court of Appeals of Tennessee, April 13, 2004; and

WHEREAS, the City Commission determines that the current provisions of Sections 14-701 et. seq., should be amended and revised;

NOW THEREFORE, BE IT ORDAINED by the City Commission of Red Bank, Tennessee;

SECTION I:

The provisions of Title 14, Chapter VII, Sections 14-701 of the Red Bank City Code are repealed in their entirety and there is substituted in its place and stead the following:

SECTION II:

SECTION 14-701 – Adult Oriented Establishments; Findings and purpose.

- (a) The City Commission of the City of Red Bank, Tennessee, finds:

- (1) That homogeneous and heterogeneous masturbatory acts and other sexual acts, including oral sex acts, have been being done in adult-oriented establishments in the City of Chattanooga.
- (2) The City of Red Bank is geographically unique in that its City Limits are geographically surrounded by the City of Chattanooga and Red Bank is in effect a political island encompassed by the City of Chattanooga.
- (3) That offering and providing such space, areas, and rooms where such activities may take place creates or potentially creates conditions that generate prostitution and other crimes.
- (4) That several days and nights of the week such adult-oriented establishments, particularly adult book stores containing mini-motion picture facilities, in the City of Chattanooga are or have been historically overcrowded and contained more persons than such structures can safely accommodate resulting in a definite fire hazard since in the event of fire such persons would not be able to safely leave all the cubicles, booths and rooms of such establishments.
- (5) That male prostitutes, particularly teenage males, have frequented said establishments for the purpose of providing, within the premises of such establishments, sex-for-hire.
- (6) That permitting unregulated operation of adult-oriented establishments in the City of Red Bank would be detrimental to the general welfare, health, and safety of the citizens of the City of Red Bank.
- (7) That there exists the undesirable probability and/or possibility of spill over and location of same or all of such undesirable activities from the City of Chattanooga to the City of Red Bank if and in the event that reasonable and lawful regulation of such (possible) situations are not duly regulated in the City of Red Bank and Red Bank's ordinances regarding same are not updated.
- (8) That Red Bank's Ordinances regulating such activities and or potential activities, occurrences and/or business have not been updated in several years.
- (b) It is the purpose of this article to promote and secure the general welfare, health, and safety of the citizens of the City of Red Bank and so as not to allow an unregulated or under-regulated exception to the surrounding City of Chattanooga's regulation of such activities and related businesses.

SECTION 14-702 - Definitions.

For the purpose of this article, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

- (a) *Adult-oriented establishment* includes, but is not limited to sexually explicit establishments which cater to an exclusively or predominantly adult clientele and offer adult entertainment for business purposes such as: adult bookstores, adult motion picture theaters, adult cabarets, escort agencies, sexual encounter centers, massage parlors, adult

saunas, adult video stores, and other enterprises which regularly feature materials, acts or displays involving complete nudity or exposure of the "Specified Anatomical Areas" herein below defined and/or sexual excitement or enticement. Adult-oriented Establishment further includes, without being limited to, any adult entertainment studio or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, exotic dance studio, encounter studio, sensitivity studio, model studio, escort service, lingerie studio or any other term of like import which regularly feature materials, acts or displays involving complete nudity or exposure of the "Specified Anatomical Areas" herein below defined for sexual excitement or enticement as a business purpose.

(b) *Adult bookstore* means a commercial establishment which, as one (1) of its principal business purposes, offers for sale or rental for any form of consideration any one (1) of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, sexual devices, video cassettes, compact discs, digital video discs, slides, or other visual representations of sexual conduct which are characterized by their emphasis on the display of "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined below) and in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, and including adult-oriented films, movies, or live entertainment, for observation by patrons therein. A business purpose for purposes of these definitions shall be a principal business purpose if any one (1) or more of the following criteria applies:

- (1) A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
- (2) A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
- (3) A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
- (4) A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
- (5) A principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or
- (6) The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.

(c) *Adult cabaret* Any restaurant, bar, dance hall, nightclub or other such public place which as one (1) of its principal business purposes regularly features entertainment of an erotic nature, including exotic dancers, go-go dancers, strippers, male or female impersonators or similar entertainers, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right

of way. A business purpose for purposes of these definitions shall be a principal business purpose if any one (1) or more of the following criteria applies:

- (1) A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
- (2) A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
- (3) A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
- (4) A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
- (5) A principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or
- (6) The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.

(d) *Adult mini-motion picture theater* means an enclosed building with a capacity of less than fifty (50) persons regularly used for its principal business purposes to present material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Sexual Conduct," "Specified Sexual Activities" or "Specified Anatomical Areas," as defined below, for observation by patrons therein. A business purpose for purposes of these definitions shall be a principal business purpose if any one (1) or more of the following criteria applies:

- (1) A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
- (2) A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
- (3) A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
- (4) A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
- (5) A principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or
- (6) The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.

- (e) *Adult motion picture theater* means any public place, whether open or enclosed, which is used as one (1) of its principal business purposes for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "Sexual Conduct," "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined below) for observation by patrons therein. A business purpose for purposes of these definitions shall be a principal business purpose if any one (1) or more of the following criteria applies:
- (1) A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (2) A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (3) A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (4) A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
 - (5) A principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or
 - (6) The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.
- (f) *Adult Video Store* means a commercial establishment which, as one (1) of its principal business purposes, offers for sale or rental for any form of consideration any one (1) of the following: photographs, films, motion pictures, sexual devices, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis on the display of "Sexual Conduct," "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined below). A business purpose for purposes of these definitions shall be a principal business purpose if any one (1) or more of the following criteria applies:
- (1) A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (2) A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (3) A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (4) A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
 - (5) A principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or

- (6) The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.
- (g) *City Commission* means the City Commission of the City of Red Bank, Tennessee.
- (h) *Employee* means any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult-oriented establishment.
- (i) *Entertainer* means any person who provides entertainment within an adult-oriented establishment as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.
- (j) *Adult-entertainment* means any exhibition of any adult-oriented motion picture, live performance, display or dance of any type that has as a principal portion of such performance, any actual or simulated performance of specified sexual activities or sexual conduct exhibition and viewing of any specified anatomical areas, removal of articles of clothing or appearing unclothed, including pantomime, modeling, or any other personal service offered customers involving exhibition and viewing of specified anatomical areas.
- (k) *Operator* means any person, partnership, or corporation operating, conducting or maintaining an adult-oriented establishment.
- (l) *Principal Portion* means at least thirty-three and one-third percent (33 1/3 %) of the matter, products, conduct and/or thing so described, whenever such term is used in this ordinance.
- (m) *Sauna* means an establishment or place which as one (1) of its principal business purposes is in the business of providing:
- (i) A steam bath; or
 - (ii) Massage and/or reasonably related services or conduct.

A business purpose for purposes of these definitions shall be a principal business purpose if any one (1) or more of the following criteria applies:

- (1) A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
- (2) A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
- (3) A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or

- (4) A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
- (5) A principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or
- (6) The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.
- (n) *School* — An academic learning center, whether public or private, from the level of nursery through twelfth grade and including secondary education centers, not limited to, but including, community colleges and universities.
- (o) *Sexual Conduct* means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, buttocks or female breast of a person for the purpose of arousing or gratifying the sexual desire of another person.
- (p) *Sexual Device* means any three-dimensional object primarily designed and marketed for the stimulation of the male or female human genital organs or anus, and shall include three-dimensional reproductions or representations of the human genital organs or anus. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for prevention of pregnancy.
- (q) *Sexual Device Shop* means a commercial establishment that regularly features sexual devices or offers for sale sexual devices as a principal portion of its business purpose. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to any portion of their premises to minors by reason of age. A business purpose for purposes of these definitions shall be a principal business purpose if any one (1) or more of the following criteria applies:
 - (1) A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (2) A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (3) A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (4) A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
 - (5) A principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or

(6) The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.

(r) *Sexual Encounter Center* means a business or commercial enterprise that, as one (1) of its principal business purposes, offers for any form of consideration:

(i) Physical contact in the form of wrestling or tumbling between persons of the opposite sex;

(ii) Physical contact between male and female persons or persons of the same sex when one (1) or more of the persons exposes to view of the persons within such establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material.

A business purpose for purposes of these definitions shall be a principal business purpose if any one (1) or more of the following criteria applies:

(1) A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or

(2) A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or

(3) A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or

(4) A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or

(5) A principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or

(6) The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.

(s) *Specified sexual activities* means:

(i) Human genitals in a state of sexual stimulation or arousal;

(ii) Acts of human masturbation, sexual intercourse or sodomy;

(iii) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.

(t) *Specified anatomical areas* means:

(1) Less than completely and opaquely covered:

(i) Human genitals,

- (ii) pubic region;
 - (iii) Buttocks;
 - (iv) Female breasts below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernibly turgid state, even if completely opaquely covered.

SECTION 14-703 - License required.

- (a) Except as provided in subsection (e) below, from and after the effective date of this article, no adult-oriented establishment shall be operated or maintained in the City of Red Bank without first obtaining a license to operate issued by the City of Red Bank.
- (b) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one (1) adult-oriented establishment must have a license for each.
- (c) No license or interest in a license may be transferred to any person, partnership or corporation.
- (d) It shall be unlawful for any entertainer, employee or operator to knowingly work in or about, or to knowingly perform any service directly related to the operation of any unlicensed adult-oriented establishment.
- (e) All existing adult-oriented establishments at the time of the passage of this article must submit an application for a license within one hundred twenty (120) days of the passage of this article on third and final reading. If a license is not issued within said one-hundred-twenty (120) day period, then such existing adult-oriented establishment shall cease operations.

SECTION 14-704 - Application for license.

- (a) Any person, partnership, or corporation desiring to secure a license shall make application to the City Manager. The application shall be filed in triplicate with and dated by the City Manager or designee. A copy of the application shall be distributed promptly by the City Manager to the Red Bank Police Department and to the applicant.
- (b) The application for a license shall be upon a form provided by the City Manager. An applicant for a license shall furnish the following information under oath:
 - (1) Name and address, including all aliases.
 - (2) Written proof that the individual is at least eighteen (18) years of age.
 - (3) All residential addresses of the applicant for the past three (3) years.
 - (4) The applicant's height, weight, color of eyes and hair.
 - (5) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.

- (6) Whether the applicant previously operated in this or any other county, city or state under an adult-oriented establishment license or similar business license: whether the applicant has ever had such a license revoked or suspended. The reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
 - (7) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
 - (8) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of the applicant.
 - (9) The address of the adult-oriented establishment to be operated by the applicant.
 - (10) The names and addresses of all persons, partnerships, or corporations holding any beneficial interest in the real estate upon which such adult-oriented establishment is to be operated, including but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.
 - (11) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.
 - (12) The length of time the applicant has been a resident of the City of Red Bank, or its environs, immediately preceding the date of the application.
 - (13) If the applicant is a corporation, the application shall specify the name, address and telephone number of the corporation, the date and state of incorporation, the name and address of the registered agent for service of process of the corporation, the names and addresses of the officers and directors of the corporation, and the names and addresses of any persons holding fifty percent (50%) or more of the stock of the corporation; if the applicant is a partnership, the application shall specify the name and address of the partnership, the name and address of all general partners of the partnership; if the partnership is a limited partnership, the application shall specify the name and address of all general partners who have a controlling interest in the partnership.
 - (14) A statement by the applicant that he or she is familiar with the provisions of this article and is in compliance with them.
 - (15) All inventory, equipment, or supplies which are to be leased, purchased, held in consignment or in any other fashion kept on the premises or any part or portion thereof for storage, display, any other use therein, or in connection with the operation of said establishment, or for resale, shall be identified in writing accompanying the application specifically designating the distributor business name, address, phone number, and representative's name.
- (c) Within ten (10) days of receiving the results of the investigation conducted by the Red Bank Police Department, the City Manager shall notify the applicant that his application is granted, denied or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon

conclusion of such additional investigation, the City Manager shall advise the applicant in writing whether the application is granted or denied.

- (d) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this article, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the City Manager.

SECTION 14-705- Standards for issuance of license.

- (a) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:
 - (1) If the applicant is an individual:
 - (i) The applicant shall be at least eighteen (18) years of age.
 - (ii) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.
 - (iii) The applicant shall not have been found to have previously violated this article within five (5) years immediately preceding the date of the application.
 - (2) If the applicant is a corporation:
 - (i) All officers, directors and stockholders required to be named under section 11-424(b) shall be at least eighteen (18) years of age.
 - (ii) No officer, director or stockholder required to be named under section 11-424(b) shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application;
 - (iii) No officer, director, or stockholder required to be named under section 11-424(b) shall have been found to have previously violated this article within five (5) years immediately preceding the date of the application.
 - (3) If the applicant is a partnership, joint venture, or any other type of organization where two (2) or more persons have a financial interest:
 - (i) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.
 - (ii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other

crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been found to have previously violated this article within five (5) years immediately preceding the date of the application.

(b) No license shall be issued unless the Red Bank Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the City Manager no later than twenty (20) days after the date of the application.

SECTION 14-706 - Permit required.

In addition to the license requirements previously set forth for owners and operators of "adult-oriented establishments," no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the City Manager.

SECTION 14-707 - Application for permit.

(a) Any person desiring to secure a permit shall make application to the City Manager. The application shall be filed in triplicate with and dated by the City Manager. A copy of the application shall be distributed promptly by the City Manager to the Red Bank Police Department and to the applicant.

(b) The application for a permit shall be upon a form provided by the City Manager. An applicant for a permit shall furnish the following information under oath:

- (1) Name and address, including all aliases.
- (2) Written proof that the individual is at least eighteen (18) years of age.
- (3) All residential addresses of the applicant for the past three (3) years.
- (4) The applicant's height, weight, color of eyes, and hair.
- (5) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.
- (6) Whether the applicant, while previously operating in this or any other city or state under an adult-oriented establishment permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason therefor, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation.
- (7) All criminal statutes, whether federal, state or city ordinance violation, convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (8) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of the applicant.

- (9) The length of time the applicant has been a resident of the City of Red Bank, or its environs immediately preceding the date of the application.
- (10) A statement by the applicant that he or she is familiar with the provisions of this article and is in compliance with them.
- (c) Within ten (10) days of receiving the results of the investigation conducted by the Red Bank Police Department, the City Manager shall notify the applicant that his application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the City Manager shall advise the applicant in writing whether the application is granted or denied.
- (d) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this article, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the board.

Section 14-708 - Standards for issuance of permit.

- (a) To receive a permit as an employee, an applicant must meet the following standards:
 - (1) The applicant shall be at least eighteen (18) years of age.
 - (2) The applicant shall not have been convicted of or pleaded no contest to a felony or any crime involving moral turpitude or prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.
 - (3) The applicant shall not have been found to violate any provision of this article within five (5) years immediately preceding the date of the application.
- (b) No permit shall be issued until the Red Bank Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the City Manager not later than twenty (20) days after the date of the application.

Section 14-709 - Fees.

- (a) In order to defray the cost of the investigation(s) related to the license and permit applications, a license fee of one thousand dollars (\$1,000.00) shall be submitted with the application for a license. If the application is denied, one-half (½) of the fee shall be returned.
- (b) A permit fee of one hundred dollars (\$100.00) shall be submitted with the application for a permit. If the application is denied, one-half (½) of the fee shall be returned.

SECTION 14-710 - Display of license or permit.

- (a) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.
- (b) The permit shall be carried by an employee upon his or her person and shall be displayed upon request of a customer, any member of the Red Bank Police Department, or any person designated by the City Commission.

SECTION 14-711 - Renewal of license or permit.

- (a) Every license issued pursuant to this article will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the City Manager. The application for renewal must be filed not later than sixty days (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the City Manager. A copy of the application for renewal shall be filed in triplicate with and dated by the City Manager. A copy of the application for renewal shall be distributed promptly by the City Manager to the Red Bank Police Department and to the operator/licensee/applicant. The application for renewal shall be upon a form provided by the City Manager and shall contain such information and data, given under oath or affirmation, as may be required by the City Commission.
- (b) A license renewal fee of one thousand dollars (\$1,000.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars (\$100.00) shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (½) of the total fees collected shall be returned.
- (c) If the Red Bank Police Department is aware of any information bearing on the operator/licensee's qualifications, that information shall be filed in writing with the City Manager.
- (d) Every permit issued pursuant to this article will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee is allowed to continue employment in an adult-oriented establishment in the following calendar year. Any employee desiring to renew a permit shall make application to the City Manager. The application for renewal must be filed not later than sixty (60) days before the permit expires. The application for renewal shall be filed in triplicate with and dated by the City Manager. A copy of the application for renewal shall be distributed promptly by the City Manager to the Red Bank Police Department and to the employee. The application for renewal shall be upon a form provided by the City Manager and shall contain such information and data, given under oath or affirmation, as may be required by the City Manager.
- (e) A permit renewal fee of one hundred dollars (\$100.00) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty dollars (\$50.00) shall be assessed against the applicant who files for renewal less than sixty (60) days before the license expires. If the application is denied, one-half (½) of the fee shall be returned.

- (f) If the Red Bank Police Department is aware of any information bearing on the licensee's or any employee of licensee's qualifications, that information shall be filed in writing with the City Manager.
- (g) Notwithstanding anything herein to the contrary, any application for renewal of a license or for renewal for a permit shall be handled, investigated and approved or denied within the same time periods as those established in this Article for original license applications and permit applications. In the event a license renewal application or permit renewal application is denied, the applicant shall have all rights of appeal to the City Commission as set forth in § 14-717 of this Article.

SECTION 14-712 - Revocation of license or permit.

- (a) The City Manager shall revoke a license or permit for any of the following reasons:
 - (1) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.
 - (2) The operator, entertainer, or any employee of the operator, violates any provision of this article or any rule or regulation adopted by the City Commission pursuant to this article; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the City Commission shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.
 - (3) The operator or employee becomes ineligible to obtain a license or permit.
 - (4) Any cost or fee required to be paid by this article is not paid within the time period provided for such payment.
 - (5) An operator employs an employee who does not have a permit or provides space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without a permit.
 - (6) Any intoxicating liquor, cereal malt beverage, narcotic or controlled substance is allowed to be sold or consumed on the licensed premises.
 - (7) Any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any adult-oriented entertainment or adult-oriented material.
 - (8) Any operator, employee or entertainer denies access of law enforcement personnel to any portion of the licensed premises wherein adult-oriented entertainment is permitted or to any portion of the licensed premises wherein adult-oriented material is displayed or sold.
 - (9) Any operator allows continuing violations of the rules and regulations of the Hamilton County Health Department and/or violations of State law or City Ordinance.

(10) Any operator fails to maintain the licensed premises in a clean, sanitary and safe condition.

- (b) Notwithstanding anything herein to the contrary, before revoking or suspending any license or permit, the City Manager shall give the license holder or permit holder not less than ten (10) nor more than twenty (20) days' written notice of the charges against such license holder or permit holder and of the revocation of such license or permit, or of the period of time such license or permit is to be suspended; such notice shall also advise the license holder or permit holder of the license holder's or permit holder's right to request a hearing before the City Commission. In the event the license holder or permit holder does not request in writing a hearing before the City Commission within the time set forth in such notice, the suspension or revocation shall be effective beginning the date set forth in such notice.

If the license holder or permit holder desires to request a hearing before the City Commission to contest the suspension or revocation, such request shall be made in writing to the Clerk of the City Commission within ten (10) days of the license holder's or permit holder's receipt of the notification from the City Manager. If the license holder or permit holder timely requests such a hearing, the effective date of a suspension or hearing shall be stayed pending the final outcome of judicial proceedings to determine whether such license or permit has been properly revoked or suspended under the law.

If the license holder or permit holder timely requests such a hearing, a public hearing shall be held within fifteen (15) days of the Clerk's receipt of such request before the City Commission at which time the license holder or permit holder may present evidence as to why the suspension or revocation is improper or contrary to the provisions of this Article. The City Commission shall hear evidence concerning the basis for such suspension or revocation and shall affirm or reverse the suspension or revocation at the conclusion of said hearing; any such hearing shall be concluded no later than twenty-eight (28) days after the license holder's or permit holder's receipt of notification of the suspension or revocation, unless an extension beyond such time period is requested by the license holder or permit holder and granted by the City Commission.

- (c) If the City Commission affirms the suspension or revocation, the Office of the City Attorney shall institute suit for declaratory judgment in a court of record in Hamilton County, Tennessee, within ten (10) days of the date of any such affirmation seeking an immediate judicial determination of whether such license or permit has been properly revoked or suspended under the law.
- (d) Any operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation of the license.

SECTION 14-713 - Hours of operation.

- (a) No adult-oriented establishment shall be open between the hours of 3:00 a.m. and 8:00 a.m. on weekdays or between the hours of 3:00 a.m. and 12:00 noon on Sundays.

- (b) All adult-oriented establishments shall be open to inspection at all reasonable times by the Red Bank Police Department or such other persons as the City Manager and/or the Hamilton County Health Department may designate.

SECTION 14-714 - Responsibilities of the operator.

- (a) The operator/licensee shall maintain a register of all employees, showing the name, and aliases used by the employee, home address, age, birthdate, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the City Commission. The above information on each employee shall be maintained in a physical/paper and in an electronic register kept on the premises for a period of three (3) years following termination.
- (b) The operator shall make the register of employees available immediately for inspection by upon demand of the City Manager or designee and/or a member of the Red Bank Police Department and/or Hamilton County Health Department at all reasonable times.
- (c) Every act or omission by an employee constituting a violation of the provisions of this article shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
- (d) An operator shall be responsible for the conduct of all employees while on the licensed premises and any act or omission of any employee constituting a violation of the provisions of this article shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.
- (e) There shall be posted and conspicuously displayed in the common areas of each adult-oriented establishment a list of any and all entertainment provided on the premises. Such list shall further indicate the specific fee or charge in dollar amounts for each entertainment listed. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the City Manager or designee and/or Red Bank Police Department at all reasonable times.
- (f) No employee of an adult-oriented establishment shall allow any minor to enter or loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined herein.
- (g) Every adult-oriented establishment shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install booths, cubicles, rooms or stalls within adult-oriented establishments for whatever purpose, but especially for the purpose of secluded viewing of adult-oriented motion pictures or other types of adult entertainment.

- (h) The operator shall be responsible for and shall provide that any room or area used for the purpose of viewing adult-oriented motion pictures or other types of live adult entertainment shall be readily accessible at all times and shall be continuously opened to view in its entirety.
- (i) No operator, entertainer, or employee of an adult-oriented establishment shall demand or collect all or any portion of a fee for entertainment before its completion.
- (j) A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:

This Adult-Oriented Establishment is Regulated by Red Bank City Code. Entertainers Are:

1. *Not permitted to engage in any type of sexual conduct;*
2. *Not permitted to expose their sex organs;*
3. *Not permitted to demand or collect all or any portion of a fee for entertainment before its completion.*

SECTION 14-715 - Prohibitions and unlawful sexual acts.

- (a) No operator, entertainer, or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers or any persons to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia with any other person or any beast or animal.
- (b) No operator, entertainer, or employee shall encourage or permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus or genitals of any other person.
- (c) No operator, entertainer, employee, person, or customer shall be unclothed or in such attire, costume, or clothing so as to expose to view any portion of the sex organs, breasts or buttocks of said operator, entertainer, or employee with the intent to arouse or gratify the sexual desires of the operator, entertainer, employee, customer or person.
- (d) No entertainer, employee or customer shall be permitted to have any physical contact with any other on the premises during any performance and all performances shall only occur upon a stage at least eighteen (18) inches above the immediate floor level and removed at least six (6) feet from the nearest entertainer, employee and/or customer.

SECTION 14-716 - Penalties and prosecution.

- (a) Any person, partnership, or corporation who is found to have violated this article shall be fined a definite sum not exceeding fifty dollars (\$50.00) and shall result in the suspension or revocation of any permit or license.
- (b) Each violation of this article shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation.

- (c) Any violation of State Law may be separately charged and prosecuted as such, shall be subject to application penalties, including imprisonment and shall not be subject to the “\$50 fine” limitations.

SECTION 14-717 - Invalidity of part.

Should any court of competent jurisdiction declare any section, clause, or provision of this article to be unconstitutional, such decision shall affect only such section, clause, or provision so declared unconstitutional, and shall not affect any other section, clause or provision of this article.

SECTION 14-718 - Denial of applications or renewals.

- (a) As used in this section, "application" shall mean (i) an application for a license, (ii) an application for a permit, (iii) an application for a license renewal, and (iv) an application for a permit renewal.
- (b) Whenever an application is denied, the City Manager shall notify the applicant in writing of the reasons for such action; such notice shall also advise the applicant of the applicant's right to request a hearing before the City Commission. If the applicant desires to request a hearing before the City Commission to contest the denial of an application, such request shall be made in writing to the City Manager within ten (10) days of the applicant's receipt of the notification of the denial of the application. If the applicant timely requests such a hearing, a public hearing shall be held within fifteen (15) days of the City Manager's receipt of such request before the City Commission at which time the applicant may present evidence as to why the application should not be denied. The City Commission shall hear evidence concerning the basis for denial of the application and shall affirm or reverse the denial of an application at the conclusion of said hearing; any such hearing shall be concluded no later than twenty-eight (28) days after the applicant's receipt of notification of denial of an application, unless an extension beyond such time period is requested by the applicant and granted by the City Manager.
- (c) If the City Commission affirms the denial of an application, the Office of the City Attorney shall institute suit for declaratory judgment in a court of record in Hamilton County, Tennessee, within ten (10) days of the date of any such denial seeking an immediate judicial determination of whether such application has been properly denied under the law.

SECTION 14-719 – Location, Distancing, and Special Use Permits.

- (a) No two Adult Oriented Establishments, may be located within five hundred feet (500) of any other Adult Oriented Establishment, measured in a straight surveyed line from the nearest property line. In the event of rejection by the City of a license application for reason of this “distance requirement”, the obligation to prove, by registered land surveyor, location eligibility for the later to apply applicant/prospective licensee/operator shall be upon such applicant.

- (b) There shall be no more than four (4) Adult Oriented Establishments located in any zone where the same is a permitted use, within the City of Red Bank.
- (c)(1) No Adult Oriented Establishment shall be located within two hundred feet (200) of any church, or other place of organized worship, any school, day care facility, public or private playground, ballfield, public swimming pool or parks or any other recreational facilities or place or location where children or groups of children are likely to congregate to participate in organized or casual sports and or recreational activities.
- (c)(2) No Adult Oriented Establishment shall be located within two hundred feet (200) of any establishment which is licensed to sell or serve beer, wine or alcoholic beverages.
- (d) All permitted activities, including but not limited to sales or display of merchandise, shall necessarily and at all times take place indoor/inside the building premises, and in no event shall any such occur or take place “outside”, in the open air or under or adjacent to or in any tent, awning or temporary structure or covering.
- (e) In the event any otherwise qualifying or eligible location shall abut or be located within one hundred feet (100) (measured in a straight surveyed line from the nearest property line) of any residential zoned property in the City of Red Bank, then the issuance of a license for operation of an adult oriented business on such property shall be subject to the issuance of a Special Exception Permit, upon application by the Applicant to the Red Bank Planning Commission and the Red Bank City Commission and as to which the City may require additional conditions to address the health, safety and welfare of the citizens, including but not limited to additional screening and or landscaping requirements, parking regulations, noise muffling, exterior lighting, and other requirements and conditions as may be reasonably necessary under the circumstances there existing.
- (f) Nothing contained in this Section 14-719 shall be interpreted or construed to repeal, suspend or otherwise modify any other provisions of the Red Bank City Code and all other provisions shall continue in full force and affect including specifically, but not by way of limitation all design review requirements, landscaping, sight screening, lighting, signage provisions and requirements, noise, traffic, parking and other ordinances and regulations.

BE IT FURTHER ORDAINED, that every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

FINALLY, BE IT ORDAINED that this ordinance shall take effect from and after the date of its final passage, the health, safety and public welfare of the Citizens of the City of Red Bank requiring it.

MAYOR

CITY RECORDER

PASSED ON FIRST READING

PASSED ON SECOND AND FINAL READING

APPROVED AS TO FORM:

CITY ATTORNEY

ORDINANCE NO. 20-1173

AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE TO AMEND THE ZONING ORDINANCE NO. 15-1020 CODIFIED AT TITLE 14 OF THE RED BANK CITY CODE CHAPTER IV, SECTION 14-402, 14-501 AND 14-502 AS RELATES TO “PERMITTED USES” IN THE ZONES THEREIN SPECIFIED

WHEREAS, the City Commission and the City Planning Commission have recently undertaken a study and revision of the City’s Zoning Ordinance with respect to the topic of “Adult Oriented Establishments”; and

WHEREAS, the heretofore existing regulations of and with respect to that topic have not been updated or studied in several years; and

WHEREAS, intervening developments, court cases, professional studies and regulatory provisions existing in the surrounding City of Chattanooga recommend an update and revision of Red Bank’s Ordinances of and with respect to that same topic; and

WHEREAS, the City has been and is in the process of revising Title 14, Chapter VII, Sections 14-701 et seg. of the Red Bank City Code of and with respect to the topic of Adult Oriented Establishments.

NOW THEREFORE, in order to protect the health, safety, welfare and morals of the citizens of the City of Red Bank and to better align the City’s regulatory provisions of and with respect to the above referenced topic and findings to those of the geographically surrounding City of Chattanooga, be it **ORDAINED** by the City Commission of the City of Red Bank, Tennessee as follows:

SECTION I:

1. That the Zoning Ordinance of the City of Red Bank, Tennessee, codified at Title 14, Chapter IV, Section 14-402 of the Red Bank City Code, C-1 Commercial Zone, at Subsection 402.03 thereof be and the same is hereby Amended to add a new permitted use to wit:

(M) Adult Oriented Establishments

2. That the Zoning Ordinance of the City of Red Bank, Tennessee codified at Title 14, Chapter V, Section 14-501.01 of the Red Bank City Code, with respect to the L-1 Light Manufacturing Zone be Amended to delete and remove Subsection (S) thereof “Adult Oriented Establishments”, from the list of permitted uses and to designate Subsection (S) thereof as “RESERVED”.

3. That the Zoning Ordinance of the City of Red Bank, Tennessee codified at Title 14, Chapter V, Section 14-502.01 of the Red Bank City Code, with respect to the M-1 Manufacturing Zone be Amended to delete and remove Subsection (B)(16) thereof “Adult Oriented Establishments”, from the list of permitted uses and to designate Subsection (B)(16) thereof as “RESERVED”.

BE IT FURTHER ORDAINED, that every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

FINALLY, BE IT ORDAINED that this ordinance shall take effect from and after the date of its final passage, the health, safety and public welfare of the Citizens of the City of Red Bank requires it.

MAYOR

CITY RECORDER

PASSED ON FIRST READING

PASSED ON SECOND AND FINAL READING

APPROVED AS TO FORM:

CITY ATTORNEY

RESOLUTION NO. 20-1346

**A RESOLUTION OF THE CITY OF RED BANK, TENNESSEE,
AUTHORIZING THE ISSUANCE OF A SPECIAL EXCEPTIONS PERMIT
FOR THE MIDVALE HIGHLANDS PLANNED UNIT DEVELOPMENT**

WHEREAS, *Tennessee Code Annotated* (TCA) § 13-7-201 allows municipal governments the authority to regulate land use through zoning of its jurisdictional territory; and

WHEREAS, the City of Red Bank permits planned unit developments (PUDs), subject to the conditions outlined in Section 14-307 of the zoning ordinance; and

WHEREAS, Bell Development has submitted a preliminary PUD plan to develop a 69-lot subdivision on property located at 1924 Ashmore Avenue (parcels 126-F-013, 126-F-014, and 126-F-015) for review and approval, in accordance with Section 14-307; and

WHEREAS, the Red Bank Planning Commission has reviewed the preliminary PUD plan for compliance with all applicable requirements of the Red Bank Zoning Ordinance and of the Subdivision Regulations; and

WHEREAS, the Red Bank Planning Commission held an advertised public hearing on May 21, 2020 in accordance with Section 307.14(B) of the zoning ordinance and subsequently voted to recommend the preliminary PUD plan for approval to the City Commission by a vote of 5-0; and

WHEREAS, the Red Bank Planning Commission has submitted the required report to the City Commission stating the reasons for approval per Section 307.14(C) of the zoning ordinance; and

WHEREAS, the City Commission conducted a public hearing in conjunction with its regularly scheduled meeting on June 16, 2020, in accordance with Section 307.14(C) of the zoning ordinance; and

WHEREAS Section 307.14(D) authorizes the City Commission to direct issuance of a special exception permit to develop a planned unit development to the owner-developer, subject to approval of a final PUD plan by the Red Bank Planning Commission and prior to the issuance of any building permits.

NOW THEREFOR BE IT RESOLVED by the City Commission of the City of Red Bank, Tennessee, as follows:

SECTION 1. That a Special Exception permit shall be issued for the Midvale Highlands planned unit development.

SECTION 2. Issuance of this special exceptions permit is subject to the following conditions:

1. The Red Bank Planning Commission is authorized to approve minor changes as detailed in Section 307.13(B) of the zoning ordinance. However, all major changes shall be resubmitted to the planning commission and city commission for review and approval, and shall be treated as a new application in accordance with Section 307.13 (B) of the zoning ordinance.
2. No building permits shall be issued until after approval of the final PUD plan by the planning commission in accordance with Section 307.14(E) of the zoning ordinance.
3. The Special Exception Permit authorized by this resolution shall automatically expire upon the date which is twelve (12) months from the date of its issuance unless an extension has been granted by the city commission in accordance with Section 307.14(H) of the zoning ordinance.

Failure to comply with any of these conditions shall result in this resolution becoming null and void.

BE IT FURTHER RESOLVED, that every section, sentence, clause, and phrase of this resolution is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

FINALLY, BE IT RESOLVED, that this resolution shall take effect from and after the date of its final passage, the public welfare of the City of Red Bank, Tennessee requiring it.

Approved this the 16th day of June 2020

MAYOR

CITY RECORDER

ACCEPTED, ACKNOWLEDGED AND
AGREED AS TO THE LIMITING FACTORS,
CONDITIONS AND REQUIREMENTS HEREOF

BY: _____
Bell Development Date

RESOLUTION NO. 20-1347

A RESOLUTION OF THE CITY OF RED BANK, TENNESSEE AUTHORIZING THE ISSUANCE OF A SPECIAL EXCEPTIONS PERMIT TO IMMUNOTEK BIO CENTERS LLC, 2101 DAYTON BOULEVARD, HAMILTON COUNTY TAX MAP PARCEL 126C-G-001, SUBJECT TO CONDITIONS

WHEREAS, ImmunoTek Bio Centers LLC, has plans to purchase and remodel the premises located 2101 Dayton Blvd., Hamilton County Tax Map Parcel 126C-G-001; and

WHEREAS, ImmunoTek Bio Centers LLC has submitted an application for a Special Exceptions Permit to allow for a plasma collection center that they propose to locate on the lot at 2101 Dayton Blvd.; and

WHEREAS, Section 14-402.03 of the Zoning Ordinance requires a Special Exceptions Permit to open a medical clinic in the C-1 Zone when abutting a residential zone; and

WHEREAS, the Red Bank Planning Commission provided an opportunity to submit comments in favor of or against the proposed Special Exceptions Permit, at an advertised public hearing held in conjunction with its regular meeting on May 21st, 2020; and

WHEREAS, the Red Bank Planning Commission considered this item again at its June 9, 2020 meeting; and

WHEREAS, the City Commission has thoroughly reviewed the Permit Application and feels that the issuance of a Special Exceptions Permit will not have a negative effect on the surrounding area.

NOW THEREFORE BE IT RESOLVED by the City Commission of the City of Red Bank, Tennessee as follows:

SECTION 1. The Special Exception Permit allowing a blood plasma collection center to be located at 2101 Dayton Boulevard be and is hereby approved and issued to ImmunoTek Bio Centers LLC.

SECTION 2: Issuance of this special exceptions permit is subject to the following conditions:

- a) The provisions of 14-403.02(V) of the Red Bank Zoning Ordinance apply, including screening and Design Review Standards.
- b) "NO LOITERING" signs shall be posted throughout the property.
- c) Days and hours of operation shall be limited to Monday through Saturday from 8:00 AM to 6:00 PM. No activities are to take place on Sunday.
- d) Provide waiting rooms so that no person will have to wait outside the building.
- e) Provide lighting and security cameras to cover all outdoor areas. Install signs to indicate that cameras are on. Cameras are to be of sufficient definition to recognize individuals. Recordings are to be retained for sixty (60) days.
- f) Special Exceptions Permit will expire in one year after approval in remodeling of the building has not begun or other significant progress has not been made.

BE IT FURTHER RESOLVED that every section, sentence, clause and phrase of this resolution is separable and severable. Should any section, sentence, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not affect or impair any other section, sentence, clause or phrase.

FINALLY, BE IT RESOLVED that this resolution shall take effect from and after the date of its passage

Resolved this the 16th day of June 2020

Mayor

City Recorder

ACCEPTED, ACKNOWLEDGED AND
AGREED AS TO THE LIMITING FACTORS,
CONDITIONS AND REQUIREMENTS HEREOF

BY: _____
Immuno Tek Bio Centers LLC Date

RESOLUTION NO. 20-1348

A RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN THE CITY OF RED BANK AND SOUTHEAST TENNESSEE DEVELOPMENT DISTRICT FOR PROVIDING LOCAL PLANNING ADVISORY SERVICES

WHEREAS, Tennessee Code Annotated, §13-14-101 and its following sections establish a delineation of regions deemed viable to the economic development of the state, and allow creation of development districts for these regions, encompassing one (1) or more counties or parts of counties, so they are conducive to efficient planning and orderly economic development of the state; and

WHEREAS, Tennessee Code Annotated, §64-7-101 and its following sections established the Southeast Tennessee Development District (SETDD), a public body on behalf of the counties of Bledsoe, Bradley, Grundy, Hamilton, McMinn, Marion, Meigs, Polk, Rhea, and Sequatchie and all incorporated municipalities and metropolitan governments located within these counties; and

WHEREAS, SETDD is empowered, among other duties, “to receive and expend funds from any sources for regional staffing, for research, planning, coordination, economic development, demonstration projects and other activities deemed necessary to promote the efficient, harmonious economic development of the region.” ; and

WHEREAS, the City of Red Bank requests the SETDD to provide planning advisory services, and agrees to appropriate the necessary funds for these services, not to exceed \$15,350.00 for the Fiscal Year beginning July 1, 2020 and ending June 30, 2021.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Red Bank, Tennessee that the agreement between the City of Red Bank and Southeast Tennessee Development District, in the amount of \$15,350.00, be and is hereby approved.

BE IT FURTHER RESOLVED that the Mayor is authorized to sign and execute the agreement upon approval by the City Attorney.

Resolved this 16th day of June, 2020

Mayor

City Recorder