

## CERTIFICATION OF CLERK

I, Brenda K. Wolf, the duly appointed, qualified, and Deputy City Clerk of Manhattan, Kansas, do hereby certify that the foregoing Ordinance was duly adopted at a meeting of the City of Manhattan, Kansas, held on the 6<sup>th</sup> day of November, 2018, and that said Ordinance has been compared by me with the original thereof on file and of record in my office, is a true copy of the whole of said original.

**IN WITNESS WHEREOF**, I have hereunto set my hand and the seal of the City of Manhattan, Kansas, 7<sup>th</sup> day of November, 2018.



*Brenda K. Wolf*

---

Brenda K. Wolf, CMC, Deputy City Clerk

## **ORDINANCE NO. 7384**

### **AN ORDINANCE CONTINUING THE ESTABLISHMENT OF A DOWNTOWN BUSINESS IMPROVEMENT DISTRICT AND LEVYING BUSINESS IMPROVEMENT SERVICE FEES, FOR THE YEAR 2019, ON BUSINESSES LOCATED WITHIN THE DOWNTOWN BUSINESS IMPROVEMENT DISTRICT.**

**WHEREAS**, the City, by the adoption of Ordinance No. 7323, continued a previously established Downtown Business Improvement District (“the District”), pursuant to the Business Improvement District Act (K.S.A. 12-1781 through 1793, as amended), hereinafter referred to as the "Act"; and,

**WHEREAS**, the Downtown Business Improvement District Advisory Board (“Advisory Board”) has recommended continuation of the boundaries of the Downtown Business Improvement District; and,

**WHEREAS**, the Governing Body does hereby continue the boundaries for the Downtown Business Improvement District; and,

**WHEREAS**, the Advisory Board has recommended a program of services and activities to be provided by the District (the “Services”), and a proposed budget to fund those Services, to the Governing Body for the year 2019; and,

**WHEREAS**, the Governing Body does hereby adopt the Services, and budget, proposed by the Advisory Board; and,

**WHEREAS**, the Governing Body desires to levy Business Improvement Service Fees against businesses located within the District, in order to fund the proposed budget.

**NOW THEREFORE**, be it ordained by the Governing Body of the City of Manhattan, Kansas:

#### **SECTION 1. DISTRICT BOUNDARIES AND NAME**

A. District Boundaries.

A business Improvement District, as provided for in the Act, shall be continued for the Downtown Business District on tracts of land located in the City of Manhattan, Riley County, Kansas, described as follows, and illustrated on Exhibit A, attached hereto:

An area including tracts of land located in the City of Manhattan, Riley County, Kansas, being more particularly described as follows:

Lots A, B, C, D, E, F and G, Manhattan Town Center 5 Addition;  
Lots 1-4, 7 and 10, Downtown Entertainment District Commercial Planned Unit Development;

Lots 1-3, Downtown Entertainment District Unit 2 Commercial Planned Unit Development;  
Lots 1-7, Downtown Entertainment District Unit 3 Commercial Planned Unit Development;  
Lots 333-336, 340-396, 585-600, WARD 1;  
Lots 23, 47, 48, 48A, 128-130, 172, 178-226, 389-420, 426-428, 434-444, Ward 2;  
Lots 1-3, Stowe-Burton Addition;  
Lots 1 and 2, First United Methodist Addition;  
Lots 1 and 2, Manhattan Marketplace Addition;  
Lots 1 and 2, Manhattan Marketplace Addition Unit 2;  
Lots 2, 3 and 4, Manhattan Marketplace Shops Unit One;  
Lots 1, 2, and 3, Gateway Subdivision No. 2;  
Lots 1 and 2, Manhattan Marketplace Shops Unit Two;  
Lot 1, Manhattan Marketplace Unit 3;  
Lots 1, 2, 3, and 4, Strasser Landing Planned Unit Development;  
Lot 1, 2 and 3, Manhattan Marketplace Shops Unit Three Planned Unit Development;  
Lots 1, 2, 3, 4, 5 and 6, Manhattan Marketplace Shops Unit Four Planned Unit Development;  
Lots 1 and 2, Manhattan Marketplace Shops Unit Five Planned Unit Development;

B. District Name.

The name of the District shall continue to be the Downtown Business Improvement District.

## **SECTION 2. DEFINITIONS**

When used in this Ordinance, the following words and phrases shall have the following meanings:

- A. Assessable Area. “Assessable area” means the total amount of ground floor area and any portion of other area above or below ground level that is occupied by one of the defined business types.
- B. Business. “Business” means a fixed place of business where one or more persons are employed or engaged in the purchase, sale, provision or manufacturing of commodities, products or services. The definition of “business” shall also include the ownership of real estate which is unoccupied and which is held for investment purposes and which could be or is offered for sale or lease. All property owned or used exclusively for state, county, municipal, literary, educational, scientific, benevolent and charitable purposes shall be excluded from the provisions of this Ordinance.

- B. Core. “Core” means a business location which has a primary entrance available to the general public on any of the following public rights-of-ways: Poyntz Avenue between Third Street and Juliette Avenue; Third Street between Humboldt and Houston Streets; or Fourth Street between Humboldt and Houston Streets.
- C. Non-retail Business. “Non-retail Business” means a person or business organization engaged in for-profit, non-retail activities, including but not limited to, light manufacturing; hotels or motels, and the provision of professional or other services.
- D. Periphery. “Periphery” means a business location within the District that is not a Core business location.
- E. Retail Business. “Retail Business” means a person or business organization engaged in the for-profit activities of offering, providing or selling material goods for sale to consumers.

**SECTION 3. SERVICES TO BE PROVIDED**

The District shall be continued to provide for the administration and financing of Services to the businesses in the District, as recommended by the Advisory Board and adopted by the Governing Body in the City Budget (Exhibit B). The City may contract with a not-for-profit corporation for the provision of any or all of the Services, and the City may use BID fees to finance the same, as well as the City’s administrative costs related to the District.

**SECTION 4. BUSINESS IMPROVEMENT DISTRICT FEES**

- A. Assessment of Business Improvement District Fee.  
Effective January 2, 2019, the City hereby assesses to each business located within the District, a Business Improvement District fee (“BID fee”) according to type of business and its location and assessable area as of January 2, 2019, as described in subsection (B).
- B. Calculation of BID Fee.
  - 1. Each business shall pay the following BID fee based upon the business type, location and assessable area, as defined in Section 2:

=====Business Location=====

Business Type	Size (sq. ft.)	Core	Periphery
<b>Retail</b>	1-500	\$155	\$96
	501-1,000	\$270	\$170
	1,001-2,500	\$385	\$242
	2,501-5,000	\$502	\$295
	5,001-10,000	\$616	\$386
	10,001-20,000	\$732	\$459
	20,001+	**	**

---

<b>Non-Retail</b>	1-500	\$92	\$69
	501,1,000	\$161	\$121
	1,001-2,500	\$230	\$174
	2,501-5,000	\$300	\$226
	5,001-10,000	\$370	\$277
	10,001-20,000	\$439	\$329
	20,001+	**	**

\*\* Assessment equals the sum of the fee for a 10,001-20,000 square feet plus one-quarter cent times the total square footage.

2. Vacant/Storage Area Fees. When a first-floor unit or structure is vacant, the property owner shall be assessed and shall pay the same fee that was assessed to the for-profit business that most recently occupied the unit or structure, based upon the prior for-profit business' location, size and type. No vacancy fee shall be charged for vacancies on other floors, including basements.

If a first-floor area is used primarily for storage, the first-floor area will be assessed a fee as if it were vacant. If a business is using or leasing a first-floor area for storage, the business owner shall pay the fee. If the property owner is using the first-floor area for storage, the property owner shall pay the fee.

C. Payment of Fees.

The BID fee is due upon assessment, and shall be considered past due if not paid on or before March 1, 2019. If the business files a timely appeal pursuant to Section 5, the BID fee shall be considered past due if not paid by the deadlines set forth in Section 5.

D. Refund.

Subsequent changes in the business that occur in 2019 shall not affect the BID fee due for the year. The BID fee shall not be refunded, regardless if the business vacates its premises or a new business subsequently assumes the premises for the remainder of 2019.

E. Collection of Fees.

If the City uses a collection agency, attorney, or court action to collect an outstanding BID fee, the costs associated therewith shall be added to the amount due to the City and shall become a legal obligation of the business.

**SECTION 5. APPEAL**

A business may appeal its assessment or the calculation of its BID fee by submitting a written appeal to the Director of Finance on or before March 1, 2019. The written appeal must provide the basis of the appeal, the correction being requested, and contact information of the appellant. The Director of Finance shall issue a written determination within fourteen (14) days of receipt of the written appeal that specifies whether the BID fee shall be recalculated or upheld. Within fourteen (14) days of this decision, the appellant shall either pay the fee stated in the written determination or submit a written appeal to the City Manager, stating the

basis of the appeal, the correction being requested, and contact information of the appellant. The City Manager shall hold a hearing within fourteen (14) days of receiving the written appeal, and shall issue a written decision, which shall be considered final. Appellant shall pay the fee provided in the City Manager's written decision within fourteen (14) days of the date of the written decision.

## **SECTION 6. BUDGET**

Fees collected through the assessment of businesses in the District in accordance with this Ordinance shall be expended for the Services recommended by the Advisory Board and adopted by the Governing Body in the City Budget. Expenditures of revenues collected from the District shall be in accordance with the requirements of the Business Improvement District Act.

## **SECTION 7. DOWNTOWN BUSINESS IMPROVEMENT DISTRICT ADVISORY BOARD**

The Downtown Business Improvement District Advisory Board is hereby continued in accordance with the provisions of the Business Improvement District Act. There shall be nine (9) members of the Downtown Business Improvement District Advisory Board who shall be appointed by the Mayor with the advice and consent of the Governing Body, and shall serve at the pleasure of the Governing Body.

The purpose of the Advisory Board is to monitor and oversee the provision of services as established by the Ordinance. The Board shall, not later than May 15 of each year, submit to the Governing Body a recommended program of services to be performed or provided within the District during the coming calendar year and a proposed budget to accomplish these objectives. In addition, the Board shall submit a proposed schedule of fees for assessment on the businesses in the District and may recommend consideration of changes in the boundaries of the District.

The Board shall establish an appeals process to permit any member of the District an opportunity to appeal their fee.

## **SECTION 8. TERM OF OFFICE**

Members appointed to the Board shall be representatives of the businesses located within the District. Of the members first appointed to the Advisory Board, five (5) shall be appointed for a term of one year and four (4) shall be appointed for a term of two years. On the expiration of the term of each Board member, subsequent terms shall be for a period of two years. Any vacancy occurring in the membership of the Business Improvement District Advisory Board shall be filled by the appointment of the Mayor with the advice and consent of the Governing Body for the unexpired term.

## SECTION 9. ENFORCEMENT

- A. The amount of any unpaid BID fee, the payment of which is required hereunder, shall constitute a debt due to the City. The City Attorney shall, at the direction of the City Manager, institute civil suit in the name of the City to recover any such unpaid fee. No civil judgment shall bar or prevent prosecution for each and every violation of this ordinance.
- B. It shall be unlawful for any person who is the owner, manager, or person in control of a business required to pay a BID fee pursuant to this Ordinance to continue to operate such business on any day after April 1, 2019, if such BID fee was not received by the City on or before April 1, 2019. It shall not be a defense to a violation of this section that a person attempted to render a BID fee that was not received by the City on or before April 1, 2019, or that a person attempted to render a BID fee after April 1, 2019, that was not accepted by the City.
- C. Any person convicted of a violation of this section shall be fined in a sum no less than \$100.00 but no greater than \$250.00, and assessed court costs.

## SECTION 10. APPLICABILITY

This Ordinance shall repeal and replace the provisions of Ordinance No. 7323 and all other ordinances in conflict herewith.

## SECTION 11. EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after its passage and publication in *The Manhattan Mercury*.

**PASSED AND APPROVED BY THE GOVERNING BODY OF THE CITY OF MANHATTAN, KANSAS, THIS 6<sup>TH</sup> DAY OF NOVEMBER, 2018.**



Michael L. Dodson, Mayor

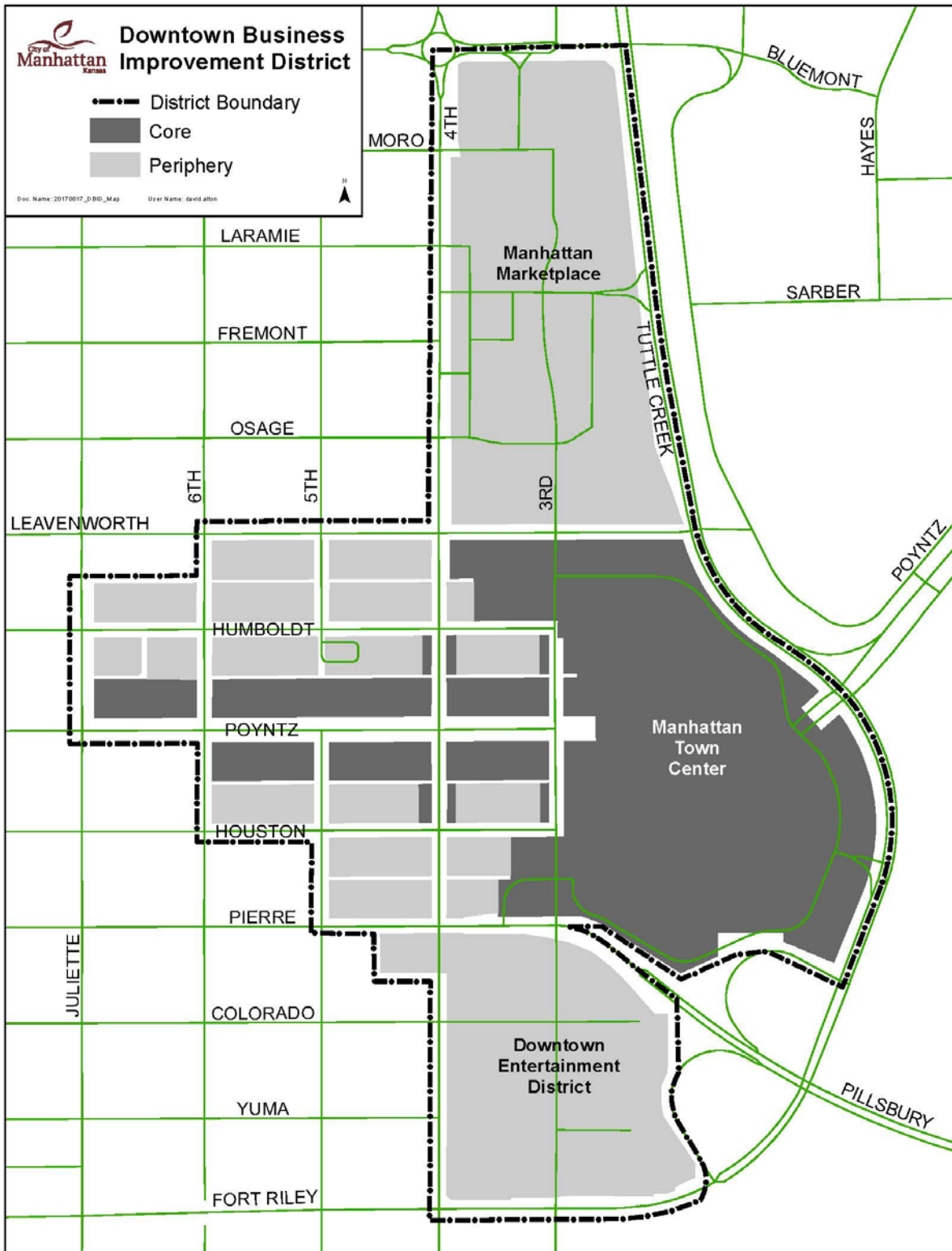
ATTEST:



Gary S. Fees, MMC, City Clerk



# EXHIBIT A





## EXHIBIT B

### Downtown Business Improvement District

#### 2019 Budget

Revenue

2019 Fees	\$91,000
2018 Cash Carryover	<u>500</u>
Total	\$91,500

Expenditures

Personnel	\$27,500
Maintenance Workers	5,000
Operating Expenses	9,500
Design and Streetscape	32,000
Promotions and Events	14,000
City Administration	<u>3,500</u>
Total	\$91,500

#### 2019 Fee Schedule

Business Type	Size (in square feet)	Core	Periphery
<b>Retail</b>	1-500	\$155	\$96
	501-1,000	\$270	\$170
	1,001-2,500	\$385	\$242
	2,501-5,000	\$502	\$295
	5,001-10,000	\$616	\$386
	10,001-20,000	\$732	\$459
	20,001+	**	**
<b>Non-Retail</b>	1-500	\$92	\$69
	501-1,000	\$161	\$121
	1,001-2,500	\$230	\$174
	2,501-5,000	\$300	\$226
	5,001-10,000	\$370	\$277
	10,001-20,000	\$439	\$329
	20,001+	**	**

\*\* Assessment equals the sum of the fee for 10,001-20,000 square foot business, plus one quarter cent times the total square footage.

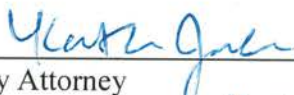
(PUBLISHED IN *THE MANHATTAN MERCURY* ON NOVEMBER 11, 2018)

**ORDINANCE NO. 7384 SUMMARY**

On November 6, 2018, the City of Manhattan, Kansas adopted the following ordinance:

**AN ORDINANCE CONTINUING THE ESTABLISHMENT OF A DOWNTOWN BUSINESS IMPROVEMENT DISTRICT AND LEVYING BUSINESS IMPROVEMENT SERVICE FEES, FOR THE YEAR 2019, ON BUSINESSES LOCATED WITHIN THE DOWNTOWN BUSINESS IMPROVEMENT DISTRICT.**

The Ordinance continues the establishment of the Downtown Business Improvement District and levies fees for 2019. This ordinance is subject to petition pursuant to state law. The complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk, City Hall, 1101 Poyntz Ave., Manhattan, KS 66502, Monday - Friday, 8 a.m. - 5 p.m., and is available for at least one week following the publication date of this summary at [www.cityofmhk.com](http://www.cityofmhk.com). This Summary certified to be legally accurate and sufficient by City Attorney Katharine Jackson.

  
\_\_\_\_\_  
City Attorney  
Date Certified: 11-6-18