

ORDINANCE NO. 51-176

AN ORDINANCE ESTABLISHING A BUSINESS IMPROVEMENT DISTRICT FOR THE DOUGLAS DESIGN DISTRICT WITHIN THE CITY OF WICHITA, KANSAS, DESCRIBING ITS BOUNDARIES, PROVIDING FOR THE ADMINISTRATION AND FINANCING OF ADDITIONAL AND EXTENDED SERVICES WITHIN SUCH DISTRICT, CREATING A DISTRICT ADVISORY BOARD FOR SUCH DISTRICT AND PROVIDING FOR THE DUTIES OF THE BOARD, THE TERMS OF ITS MEMBERS AND THEIR METHOD OF APPOINTMENT.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the "City"), pursuant to K.S.A. 12-1785, has heretofore authorized the Mayor to establish and appoint a Planning Committee to study and develop preliminary plans for the establishment and operation of a Business Improvement District for the Douglas Design District (the "District") to provide certain related services within the City; and,

WHEREAS, on December 10, 2019, the Planning Committee submitted its report to the Governing Body, recommending the creation of the District, further recommending that the boundaries of the District be the properties fronting Douglas Avenue from Washington Avenue on the west to Glendale Avenue on the east, outlining the additional and extended services needed within the District, estimating the annual cost of providing those services recommended for performance during the next three years, and describing the proposed method of financing such costs; and,

WHEREAS, the Governing Body, on December 10, 2019, adopted Resolution No. 19-461, proposing the creation of the District within the City, pursuant to K.S.A. 12-1781, *et seq.* (the "Act"), describing the boundaries of the proposed District, generally describing the services to be provided within the District pursuant to the Act, stating the estimated annual costs of providing such services during the next three years and the method by which the city proposes to raise the revenues to finance such services, setting the time and place of a public hearing to be held by the Governing Body on January 14, 2020, to consider the establishment of the District, and providing for the giving of notice of such intention in the manner required by the Act; and,

WHEREAS, a Notice of Public Hearing authorized by Resolution No. 19-461 was duly published in the Wichita Eagle on December 13, 2019, and copies of the Notice of Public Hearing, together with copies of Resolution No. 19-461, were sent out by first class mail, at least 30 days prior to January 14, 2020, to all businesses located within the District; and,

WHEREAS, on January 14, 2020, the Governing Body conducted the public hearing noticed for that date and such public hearing has been concluded;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The Governing Body hereby finds and determines that it is advisable and in the public interest to establish the District as proposed in Resolution No. 19-461, to provide for the administration and financing of additional and extended services within the District to promote the economic vitality of the District and the development, promotion and support of community events and activities.

SECTION 2. The name of the District shall be the Business Improvement District for the Douglas Design District, and its boundaries shall be coterminous with the parcels fronting Douglas Avenue, and associated parcels, from Washington Avenue on the west to Glendale Avenue on the east as illustrated in Exhibit A attached hereto.

SECTION 3. By way of general description, the services to be provided within the District will include promotion and marketing through the Douglas Design District website (www.dddwichita.com) and social media pages (Facebook, Instagram and Twitter), destination marketing initiatives like 2nd Saturday and Small Business Saturday, beautification efforts to include Avenue Art Days and public murals, as well as extended services. Extended services include street front office space and access to print marketing and promotional materials, enhancements to the website to include database of open properties, enhanced group marketing, and enhanced beautification efforts. In addition, District services will include measuring the return on investment from the activities funded by the District. Annually, the organization contracted by the City to operate the District (the “Operator”) will submit a Proposed Operating Plan and Budget (the “Business Plan”) to the Business Improvement District Advisory Board for the ensuing calendar year not later than February 15 of each year. It is anticipated that in years of surplus and the early years of the District the Business Plan will make provision for the establishment of reserves and in years of deficits application of reserves. Furthermore, the Business Plan may include expenditures from current year revenue in a future year or years.

SECTION 4. The method to raise the revenues needed to finance the services as provided in Section 3 hereof is an annual fee (the “Fee”) to be levied pursuant to K.S.A. 12-1791. The Fee shall be calculated based on the following table and shall be remitted to the City by all businesses within the District not later than March 1 of each calendar year.

Size/Area of Business (in square feet)	Fee
1-500	\$100
501- 1,000	\$175
1,000- 2,500	\$250
2,501- 5,000	\$325
5,001- 10,000	\$400
10,001- 20,000	\$475
20,001+	\$550
Multi-Family Residential (3-9 units)	50% of assessment Fee
Commercial Residential (10+ units)	Full assessment Fee

SECTION 5. Pursuant to K.S.A. 12-1792, a budgeted special revenue fund is hereby created to receive Fees levied by the District pursuant to the Act, all of which shall be deposited to the credit of such special revenue fund and thereafter accounted for and expended for the purposes authorized by the Act and the terms of this Ordinance. The City shall be entitled to retain a portion of the Fee collected, to cover its costs of collecting the Fee and administering the special revenue fund. All funds other than the administrative fee will be paid the Operator pursuant to the provisions of its Contract, while such Contract remains in effect. If funds are collected in excess of the approved Business Plan or a shortfall is created, the City Manager and the Operator (while its Contract remains in effect) will agree on Business Plan modifications to adjust to actual revenues, which modifications may include a reserve for future years.

SECTION 6. Pursuant to K.S.A. 12-1790, there is hereby created an advisory board for the District, to be known as the Business Improvement District Advisory Board for the Douglas Design District (the “Board”).

SECTION 7. The Board shall be composed of fourteen (14) members, all of whom shall represent businesses within the District that pay the Fee (pursuant to K.S.A. 12-1790) and all of whom shall serve without compensation. The members of the Board shall represent businesses from a diverse geography within the District, and small, medium, and large businesses. Half of the initial members will serve initial terms from their date of appointment to March 31, 2021, and the remainder to March 31, 2022, with successor terms to be two-year terms commencing April 1 and expiring March 31 of the second year thereafter. The Operator may submit a list of nominees (one name for each vacancy) to be considered by the City Council for appointment to the Board, which nominees may be selected or rejected by the City Council in the exercise of its discretion. If any nominee is rejected by the City Council, the Operator may submit an additional name (one for each vacancy) to be considered by the City Council, which nominee may be accepted or rejected, until all positions have been filled

with voting members. Thereafter upon expiration of any term or the existence of a vacancy, the Operator may present nominations to the City Council to fill such positions in the same manner. Section 2.12.010(1), Section 2.12.010(4), Section 2.12.010(6), and Section 2.12.030(b) of the Code of the City of Wichita shall not apply to appointments to the Board.

SECTION 8. The Board may adopt by-laws, select officers, and conduct business consistent with the Act and in accordance the provisions of Sections 2.12.010 and 2.12.020 of the Code of the City of Wichita, except that the regular schedule of meetings to be established by the Board may provide for meetings less frequently than monthly if the Board determines that the business of the Board does not require monthly meetings.

SECTION 9. Annually, the Board will review and approve the Business Plan submitted by the Operator as provided in Section 3 hereof and the Board shall, pursuant to K.S.A. 12-1790, not later than May 15 of each year, submit to the City Council a recommended program of services to be performed or provided within the District during the next ensuing calendar year, and a proposed budget to accomplish these objectives, consistent with the Business Plan. Consistent with its obligations under the Act, the Board shall serve as an oversight body, which shall annually: a) develop goals and performance measures for the District; b) provide a report to the City Manager, for transmission to the City Council, reporting current progress in implementation of the District and in development and achievement of goals and performance measures; c) advise the City Manager and the City Council as to the adequacy of any classification of businesses and any annual fee levied to finance the cost of services provided within the District; and d) advise the City Manager and the City Council concerning any other matters which the Board deems to be material pertaining to the operations of the District. The City will enter into a contract with the Operator for the provision of management and other services to the District in accordance with the Business Plan. The Operator shall work with the Board on the development of specific activities to be provided each year and to assist the Board in the performance of its duties.

SECTION 10. Pursuant to Section 2.12.020(7) of the Code of the City of Wichita, a regular full-time city employee shall be assigned as *ex officio* secretary to the Board for purposes of maintaining records, minutes and the handling of administrative matters without the right to vote or to perform any other function than provide administrative services. The City Manager shall also provide any additional staff support needed to ensure that the board receives informational support and professional and technical assistance necessary to carry on its duties and conduct its meetings.

SECTION 11. The District shall commence January 1, 2021. The term of the District shall be for one-year. The term of the District shall be extended for an additional one-year term upon adoption of the District annual budget by the City Council pursuant to the provisions of K.S.A. 12-1791. The City Council may vote not to extend the term of the District for one additional year at the time of the District budget consideration, in which event the District term will not be extended for one additional year.

SECTION 12. The City shall have the authority to levy and collect penalties on unpaid Fees. If a business does not remit payment of the Fee as provided in Section 4 herein, there shall be added to such Fee, as a penalty, ten percent (10%) of the amount of said Fee first month or any part thereof the Fee is unpaid, and for each and every month thereafter, two percent (2%) of the amount of said Fee shall be added until the Fee and the penalty is fully paid. In no case shall the total penalty exceed thirty percent (30%) of the Fee. If any delinquent Fee or penalty is not paid within sixty (60) days from the date on which the Fee or penalty became delinquent, the City may give notice to the business of its intention to initiate a collection action. Written notice shall be deemed given when a copy of the notice is enclosed in a sealed envelope with postage thereon fully prepaid and certified in the United States mail and addressed to that address given by the business to the City. The collection action may be initiated upon lapse of the fifteen-day period provided in the notice if not all Fees and penalties are paid in full within the fifteen-day period.

SECTION 13. Following its adoption, this Ordinance shall be published one time in the official City paper.

SECTION 14. This ordinance, which is subject to the protest provisions of K.S.A. 12-1789, shall take effect immediately upon its publication, but shall be subject to subsequent repeal if, within the 45 days following its publication, a sufficient petition subscribed by the owners of a majority of the businesses located within the District is submitted to compel the repeal of this ordinance and the dissolution of the District.

ADOPTED this 21st day of January, 2020.

Brandon J. Whipple, Mayor

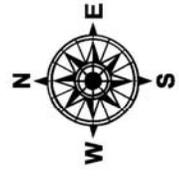
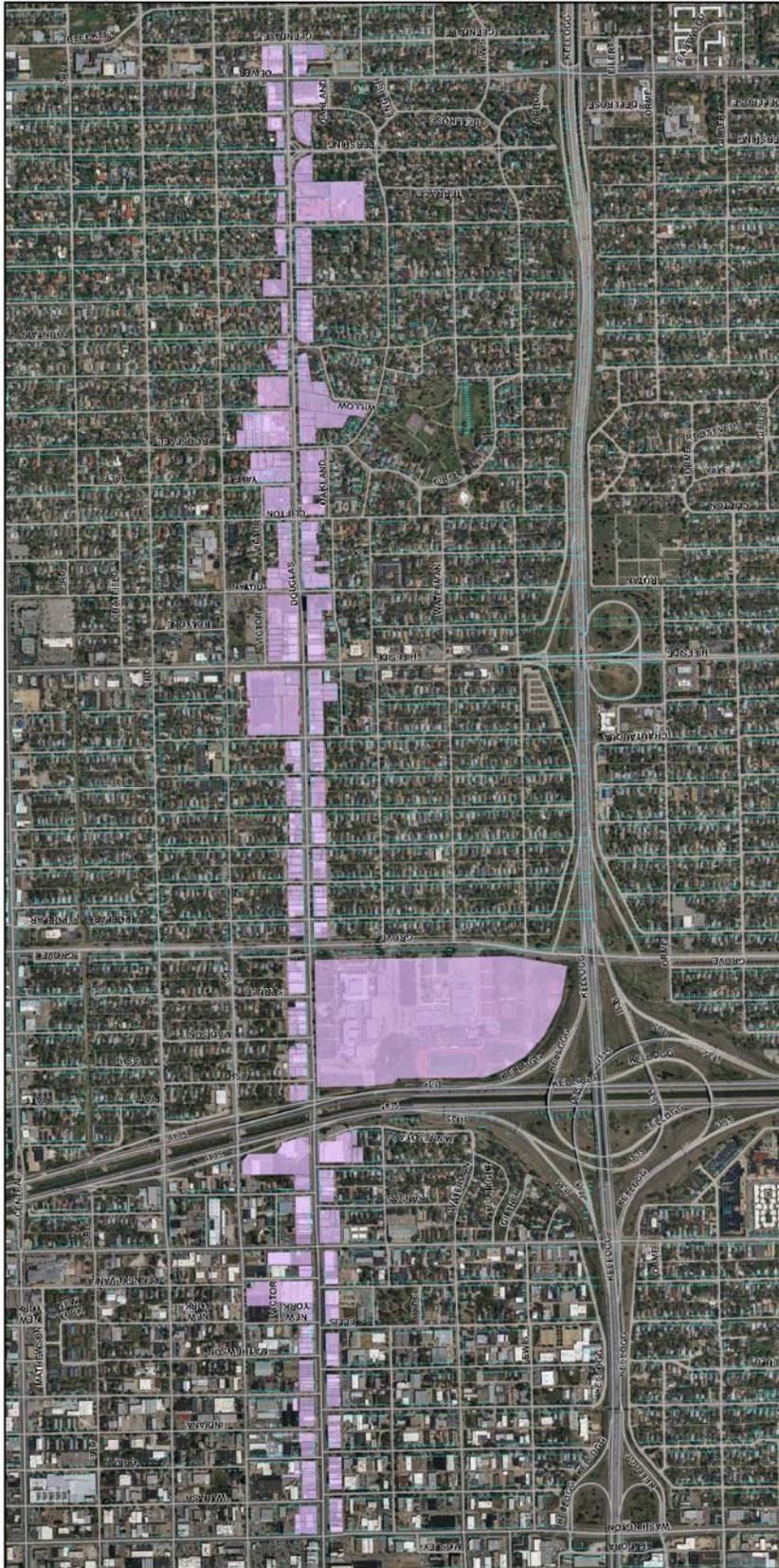
ATTEST:

Karen Sublett, City Clerk

(SEAL)

Approved as to form: _____
Jennifer Magana, City Attorney and Director of Law

**EXHIBIT A
BOUNDARIES OF THE BUSINESS IMPROVEMENT DISTRICT**



Legend
 Parcels Fronting Douglas and Associated Parcels

**Douglas Design District
Douglas Frontage Parcels**