AN ORDINANCE introduced by Mayor Joan Wagonon relating to the Capital City Downtown Business Improvement District, establishing the method of raising revenue and enforcement, amending City of Topeka Code §§ 42-38 and 42-40 and specifically repealing said original sections.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. City of Topeka Code § 42-38, Method of raising revenue, is hereby amended to read as follows:

Method of raising revenue.

(a) The method to be used to raise the funds necessary for the district shall be the levy of service fees upon all businesses located within the district, as defined by K.S.A. 12-1782(b), based on the number of square feet of floor area occupied by each business and further based upon the location of each business within the district. For the purposes of this article, the operation of multifamily residential property and the operation of structured parking facilities shall not be considered to be a business. The base rate shall be $0.06 per square foot of floor area. Businesses shall be levied fees at 100 percent, 80 percent, 60 percent, 40 percent or 20 percent of this base rate, depending on the location of the business within the district.

(b) In the case of any business which occupies in one or more buildings a total floor area in excess of 100,000 square feet, the fees levied in this section shall be at the highest applicable rate for 100,000 square feet and at one-half the applicable rate for the remainder in excess of 100,000 square feet. The service fees assessed shall be as follows:

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<tr>
<th>Number of Square Feet</th>
<th>Rate Per Square Foot</th>
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<tr>
<td>0 – 999</td>
<td>$.00</td>
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However, the maximum service fee per business shall be ten thousand dollars ($10,000.00) regardless of the number of square feet.

(c) For the purposes of this article, the number of square feet of floor area occupied shall be determined as the total area designated for the exclusive use by the owner or tenants expressed in square feet and measured from the centerline of joint partitions and from outside wall faces. In the case of leased property, square feet of floor area occupied is considered that area for which tenants pay rent. In no event shall square feet of floor area occupied include public toilets, corridors, stairwells, elevators, mechanical equipment rooms, lobbies, or mall areas, or hotel sleeping rooms. Further, in no event shall square feet of floor area occupied include area which is unusable, is not occupied due to applicable city codes, or is not in active use by a tenant. In the case of a building occupied by a single business, the gross floor area may be reduced by subtracting the actual measured square footage of excluded areas as defined in this section or by subtracting 15 percent of the gross floor area, whichever is greater.

(d) In the case of unoccupied real estate which is held for investment purposes, for sale or lease, the fee assessment under this section shall be reduced by one-half.

(ed) Service fees under this section shall be levied annually and shall be due and payable in two semiannual installments. Service fees shall be deemed delinquent if not paid within 30 days of the due date provided for the second semiannual installment.

Section 2. City of Topeka Code § 42-40, Enforcement; violations; penalty, is hereby amended to read as follows:

Enforcement; violations; penalty.

(a) The amount of any unpaid fee, the payment of which is required under this
article, shall constitute a debt due to the city. The city attorney shall institute a civil suit in the name of the city to recover any such unpaid fee. No civil judgment shall bar or prevent a criminal prosecution for each and every violation of this article.

(b) It shall be unlawful for any person who is the owner or operator of any business required to pay a fee pursuant to this article to continue operation of such business after such fee has become past due and remains unpaid. Any person convicted of a violation of this section shall be fined in a sum no greater than $500.00. Each day of such violation shall constitute a separate offense.

(c) Notwithstanding the above, no civil action shall be commenced for collection of delinquent service fees when such amount of unpaid fees is $50.00 or less or when in the discretion of the city attorney the amount of the delinquency or other factors indicate such action is not prudent.

Section 3. Original City of Topeka Code §§ 42-38 and 42-40 are hereby specifically repealed.

Section 4. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED and APPROVED by the City Council

MAY 9, 2000

Joan Wagnon, Mayor

ATTEST:

Iris E. Walker, City Clerk