

**Chapter 2.14**  
**BUSINESS IMPROVEMENT DISTRICT**

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**2.14.010 Boundaries and name of district.**

A Business Improvement District, as provided for in K.S.A. 12-1781, et seq., shall be established for the Downtown Business District of the City of Overland Park, Kansas, described as follows:

Beginning at the intersection of the center lines of Newton St. and 78th Street in Section 19, Township 12 South, Range 25 East, in the City of Overland Park, Johnson County, Kansas; thence easterly along the center line of 78th Street to a point 753.34 feet east of the center line of Metcalf Ave., said point being at the intersection of the center line of 78th St. and the northerly extension of the east line of Lot 5, Early Place, a subdivision of land in the City of Overland Park; thence southerly along said extension and along said east line and its southerly extension to a point 165 feet north of the south line of Section 20, Township 12 South, Range 25 East; thence easterly and parallel to the south line of said Section 20 to a point 800 feet east of the west line of said Section 20; thence southerly and parallel to the west line of said Section 20 to a point on the south line of said Section 20; thence westerly along said south line to a point 795 feet east of the southwest corner of said Section 20; thence southerly and parallel to the west line of Section 29, Township 12 South, Range 25 East to a point on the north line of Lot 13, Kirkbride Place, a subdivision of land in the City of Overland Park; thence westerly along said north line to the northeast corner of Lot 14, Kirkbride Place; thence southerly along the east line of said Lot 14 and its southerly extension to the center line of 80th St.; thence west along the center line of 80th St. to its intersection with the center line of Broadmoor Lane; thence south along the center line of Broadmoor Lane to its intersection with the north line of Lot 2, Conser's Addition, a subdivision of land in the City of Overland Park; thence easterly along the north line of said Lot 2 to a point 138 feet east of the northwest corner of said Lot 2; thence southerly and parallel to the west line of said Lot 2 a distance of 320 feet; thence westerly and parallel to the north line of said Lot 2 a distance of 138 feet to the intersection with the east line of Lot 1, Conser's Addition, a subdivision of land in the City of Overland Park; thence southerly along the east line of said Lot 1 and its southerly extension to the center line of 82nd St.; thence westerly along the center line of 82nd St. to its intersection with the center line of Travis St.; thence southerly along the center line

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of Travis St. to its intersection with the center line of 83rd St.; thence westerly along the center line of 83rd St. to its intersection with the southwesterly extension of the westerly line of Lot 5, Block 10, Overland Heights No. 2, a subdivision of land in the City of Overland Park; thence northeasterly along said extension and along said westerly line of Lot 5 and its northeasterly extension to a point on the center line of Overland Park Drive; thence northwesterly along the center line of Overland Park Drive to its intersection with the center line of Valley View Dr.; thence southwesterly along the center line of Valley View Dr. to its intersection with the southeasterly extension of the southwesterly line of Lot 4, Overland Acres, a subdivision of land in the City of Overland Park; thence northwesterly along said extension and along the southwesterly line of said Lot 4 to the east corner of Lot 2, Overland Acres; thence southwesterly along the southeasterly line of said Lot 2 to the northeast corner of Lot 1, Overland Acres; thence south along the west line of said Lot 1 to the southeast corner of said Lot 1; thence west along the south line of said Lot 1 and its westerly extension to its intersection with the center line of Robinson St.; thence northerly along the center line of Robinson St. to its intersection with the center line of 81st St.; thence easterly along the center line of 81st St. to its intersection with the southerly extension of the east line of Lot 13, Block 6, Overland Park, a subdivision of land in the City of Overland Park; thence northerly to the northeast corner of Lot 24, Block 2, Overland Park; thence northerly to the southwest corner of Lot 34, Marty's First Addition to Overland, a subdivision of land in the City of Overland Park; thence westerly and along the south line of Lot 33, Marty's 1<sup>st</sup> Addition to Overland, and its westerly extension to its intersection with the center line of Newton St.; thence northerly along the center line of Newton St. to its intersection with the center line of 78th St. and the Point of Beginning.

The District, for the purpose of assessing the business improvement fee, shall be divided into two tiers, as follows:

1. Tier 1 shall be described as follows:

### **Tier 1 - Core**

Beginning at the intersection of the center lines of Foster St. and 79th St. on the south line of Section 19, Township 12 South, Range 25 East, in the City of Overland Park, Johnson County, Kansas; thence northerly along the center line of Foster St. a distance of 136.36 feet; thence east a distance of 93.63 feet; thence south a distance of 21 feet; thence east a distance of 86 feet; thence north a distance of 32 feet; thence east a distance of 100 feet; thence south a distance of 142 feet to a point on the center line of 79th St.; thence easterly along the center line of 79th St. to its intersection with the center line of Marty St.; thence northerly along the center line of Marty St. to its intersection with the westerly extension of the south line of Lot 41, Overland Summit, a subdivision of land in the City of Overland Park; thence easterly along said extension and along the south line of said Lot 41 to the southeast corner of said Lot 41; thence northerly along the east line of said Lot 41 to the northwest corner of Lot 53, Overland Summit; thence easterly along the north line of said Lot 53 and its easterly extension to the east right of way line of Floyd St.; thence southerly along the east right of way line of Floyd St. to the southwest corner of Lot 88, Overland Summit; thence easterly along the south line of said Lot 88 to the

southeast corner of said Lot 88; thence northerly along the east line of Lots 100, 101, 102, 103, 104, 105, 106, and 107, Overland Summit, to the northwest corner of said Lot 107; thence easterly along the north line of said Lot 107 and its easterly extension to the center line of Metcalf Ave.; thence southerly along the center line of Metcalf Ave. to its intersection with the easterly extension of the south line of Lot 1, UMB At Metcalf, a subdivision of land in the City of Overland Park; thence westerly along the south line of said Lot 1 and its westerly extension to the intersection with the center line of Floyd Street; thence northerly along the center line of Floyd Street to its intersection with the easterly extension of the south line of Lot 7, Block 3, Overland Heights No. 2, a subdivision of land in the City of Overland Park; thence westerly to the southeast corner of Lot 7, Block 3, Overland Heights No. 2; thence westerly along the south line of said Lot 7 to the southwest corner of said Lot 7; thence westerly along the south line of Lot 22, Block 3, Overland Heights No. 2 and its westerly extension to the southeast corner of Lot 25, Block 5, Overland Heights No. 2; thence north 30 feet along the east line of said Lot 5; thence westerly and parallel with the north line of said Lot 5 to a point on the west line of said Lot 5, 30 feet north of the southwest corner of said Lot 5; thence north along the west line of said Lot 5 to the northwest corner of said Lot 5; thence west along the south line of Lot 9 of the Amended Plat Of the Resurvey Of West ½ of Tract 10 of the Resurvey Of Overland Heights, a subdivision of land in the City of Overland Park, and its westerly extension to the west right of way line of Overland Park Drive; thence northerly along the west right of way line of Overland Park Drive to the southeast corner of Lot 8, Dale's Addition No. 2, a subdivision of land in the City of Overland Park; thence northwesterly along the south line of said Lot 8 to the northeast corner of Lot 1, Block's Addition, a subdivision of land in the City of Overland Park; thence southwest along the southeasterly line of Lots 1, 2, 3, 4, 5, 6, 7, 8, and 9, Block's Addition, to the southeast corner of said Lot 9; thence northwesterly along the southwesterly line of said Lot 9 and its northwesterly extension to its intersection with the center line of Santa Fe Dr.; thence southwest along the center line of Santa Fe Dr. to its intersection with the center line of Conser St.; thence northerly along the center line of Conser St. to its intersection with the westerly extension of the north line of Lot 14, Block 1, Overland Park, a subdivision of land in the City of Overland Park; thence easterly along said extension and along the north line of Lots 14 and 11 and its easterly extension to its intersection with the center line of Foster St.; thence northerly along the center line of Foster St. to its intersection with the center line of 79th St. and the Point of Beginning.

2. Tier 2 shall be described as follows:

### **Tier 2 - Fringe**

Beginning at the intersection of the center lines of Newton St. and 78th Street in Section 19, Township 12 South, Range 25 East, in the City of Overland Park, Johnson County, Kansas; thence easterly along the center line of 78th Street to a point 753.34 feet east of the center line of Metcalf Ave., said point being at the intersection of the center line of 78th St. and the northerly extension of the east line of Lot 5, Early Place, a subdivision of land in the City of Overland Park; thence southerly along said extension and along said east line and its southerly extension

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to a point 165 feet north of the south line of Section 20, Township 12 South, Range 25 East; thence easterly and parallel to the south line of said Section 20 to a point 800 feet east of the west line of said Section 20; thence southerly and parallel to the west line of said Section 20 to a point on the south line of said Section 20; thence westerly along said south line to a point 795 feet east of the southwest corner of said Section 20; thence southerly and parallel to the west line of Section 29, Township 12 South, Range 25 East to a point on the north line of Lot 13, Kirkbride Place, a subdivision of land in the City of Overland Park; thence westerly along said north line to the northeast corner of Lot 14, Kirkbride Place; thence southerly along the east line of said Lot 14 and its southerly extension to the center line of 80th St.; thence west along the center line of 80th St. to its intersection with the center line of Broadmoor Lane; thence south along the center line of Broadmoor Lane to its intersection with the north line of Lot 2, Conser's Addition, a subdivision of land in the City of Overland Park; thence easterly along the north line of said Lot 2 to a point 138 feet east of the northwest corner of said Lot 2; thence southerly and parallel to the west line of said Lot 2 a distance of 320 feet; thence westerly and parallel to the north line of said Lot 2 a distance of 138 feet to the intersection with the east line of Lot 1, Conser's Addition, a subdivision of land in the City of Overland Park; thence southerly along the east line of said Lot 1 and its southerly extension to the center line of 82nd St.; thence westerly along the center line of 82nd St. to its intersection with the center line of Travis St.; thence southerly along the center line of Travis St. to its intersection with the center line of 83rd St.; thence westerly along the center line of 83rd St. to its intersection with the southwesterly extension of the westerly line of Lot 5, Block 10, Overland Heights No. 2, a subdivision of land in the City of Overland Park; thence northeasterly along said extension and along said westerly line of Lot 5 and its northeasterly extension to a point on the center line of Overland Park Dr.; thence northwesterly along the center line of Overland Park Dr. to its intersection with the center line of Valley View Dr.; thence southwesterly along the center line of Valley View Dr. to its intersection with the southeasterly extension of the southwesterly line of Lot 4, Overland Acres, a subdivision of land in the City of Overland Park; thence northwesterly along said extension and along the southwesterly line of said Lot 4 to the east corner of Lot 2, Overland Acres; thence southwesterly along the southeasterly line of said Lot 2 to the northeast corner of Lot 1, Overland Acres; thence south along the west line of said Lot 1 to the southeast corner of said Lot 1; thence west along the south line of said Lot 1 and its westerly extension to its intersection with the center line of Robinson St.; thence northerly along the center line of Robinson St. to its intersection with the center line of 81st St.; thence easterly along the center line of 81st St. to its intersection with the southerly extension of the east line of Lot 13, Block 6, Overland Park, a subdivision of land in the City of Overland Park; thence northerly to the northeast corner of Lot 24, Block 2, Overland Park; thence northerly to the southwest corner of Lot 34, Marty's 1st Addition to Overland, a subdivision of land in the City of Overland Park; thence westerly along the south line of Lot 33, Marty's 1<sup>st</sup> Addition to Overland, and its westerly extension to its intersection with the center line of Newton St.; thence northerly along the center line of Newton St. to its intersection with the center line of 78th St. and the Point of Beginning, except that part described above as "Tier 1 - Core."

(History: Ord. BID-2844 §1, 2009; BID-1988 §1, 96; BID-1525 §1, 88)

**2.14.020 Services to be provided.**

The Downtown Business Improvement District shall be created to provide to the businesses in the Improvement District the services and activities adopted by the Governing Body of the City of Overland Park in the annual City budget. Such services and activities may include and are limited to: administration, operating expenses, general downtown promotions, open air markets, transportation, parking, streets, street lighting, traffic controls, refuse collection and disposal, security, snow removal, beautification, parks and recreation, programs for special populations and capital improvements which do not require multi-year funding all for the area described in Section 2.14.010 herein and that are not otherwise provided for in the annual City budget.

Nothing herein shall prohibit the City from contracting with a not-for-profit corporation or any other entity for the provision of specified services within the District.

(History: Ord. BID-1525 §2, 88)

**2.14.030 Methods used to finance services.**

The activities described in Section 2 of this ordinance shall be financed through a fee assessed by the City, established by annual ordinance, against the businesses within the district according to reasonable classification based on any or all of the following factors:

1. Type of business
2. Total square footage
3. Location within defined tiers within the district.

(History: Ord. BID-1988 §2, 96; BID-1525 §3, 88)

**2.14.040 Downtown Business Improvement District Advisory Board.**

The Downtown Business Improvement District Advisory Board is hereby established in accordance with the provisions of the Business Improvement District Act. The duties of the Advisory Board shall be:

1. To monitor and oversee the provision of services financed by Downtown Business Improvement District fees.
2. To submit to the Governing Body of the City of Overland Park, not later than May 15th of each year, a recommended program of services to be performed or provided within the district during the coming calendar year, a proposed budget to accomplish these objectives, and a proposed schedule of fees for assessment on the businesses within the district for these services. The assessment per business shall not increase from year to year without a public hearing to consider the increase.
3. To act as an appeals board for any disputes concerning methods of assessment and fees to businesses within the district. Such appeals shall be submitted to the board in writing. The board shall provide a written response to the appeal no later than sixty (60) days following receipt of the appeal by the Director of Planning and Development Services for the City.

(History: Ord. ROCR-2245 §1, 2001; BID-1525 §4, 88)

**2.14.050 Number, method of appointment, and terms of advisory board.**

There shall be seven (7) members of the Downtown Business Improvement District Advisory Board who shall be appointed by the Mayor with consent of the Council of the City of Overland Park. Members shall be representative of businesses located within the district. Nothing herein shall prohibit the members of the advisory board from also serving on the board of directors of a not-for-profit corporation with which the City may contract to provide specified services within the district, but no member of the board shall, directly or indirectly, receive compensation for service on the board.

Of the members first appointed to the advisory board, four (4) shall be appointed for a term of one year and three (3) shall be appointed for two years. On the expiration of the term of each board member, subsequent terms shall be for a period of two years. No person shall be a member of the advisory board for a period in excess of six (6) consecutive years.

(History: Ord. BID-1830 §1, 93; BID-1525 §5, 88)

**2.14.060 Definitions.**

A. Commercial Businesses. The term "Commercial businesses" as used in this ordinance shall mean any individual, sole proprietorship, corporation, partnership or other organization engaged in the exchange, purchase, sale, or trade or manufacturing of any commodities, products, merchandise or services for profit, except those specifically exempted under this ordinance. Each separate business name and address shall be deemed a separate commercial business even though it may be subject to the same ownership. Commercial business shall include but not be limited to the following businesses:

- Department stores
- Apparel and accessories
- Furniture and appliances
- Office supply and quick copy
- Home furnishings
- Food, eating and drinking
- General merchandise and other retail trade
- Finance investment with footage
- Automobile dealerships
- Real estate
- Insurance
- Employment services
- Communications
- Repair
- Utilities
- Industrial manufacturing
- Wholesale warehousing
- Machinery/equipment
- Automotive
- Construction services
- Entertainment

Medical and health related  
 Legal services Architectural/engineering  
 Accounting  
 Educational  
 Barber and beauty shops

Unoccupied buildings or structures, or parts thereof, which are held by their owner or owners for investment purposes, sale or lease. Each such building or structure which is wholly unoccupied, or that part of such building or structure which is unoccupied, if the building or structure is partially occupied, shall be considered to be a single commercial business.

- B. Non-Commercial Businesses. The term "non-commercial businesses" as used in this ordinance, shall mean any individual, sole proprietorship, corporation, partnership, or other organization, that operates on a not-for-profit basis. Evidence of such non-profit status shall include but not be limited to exemption from state property taxes, or designation by the Federal Internal Revenue Service as a Section 501(C) organization. Non-commercial business shall include but not be limited to the following businesses:

Governmental  
 Religious  
 Educational  
 Charitable  
 Business/civic/labor associations  
 Residential

(History: Ord. BIS-1526 §1, 88)

#### **2.14.070 Methods of Assessment.**

- A. The owners of all commercial businesses within the district shall be assessed a business improvement service fee for 1997 calendar year according to the following:
1. The minimum fee for each commercial business within tier 1 shall be not less than \$126; the minimum fee for each commercial business within tier 2 shall be not less than \$115.
  2. The maximum fee for each commercial business within tier 1 shall not exceed \$1,200; the maximum fee for each commercial business within tier 2 shall not exceed \$1,100.
  3. Each commercial business within tier 1 shall be assessed at a rate of \$0.19, and each commercial business within tier 2 shall be assessed at a rate of \$.17, per leased or owned square foot of floor area as measured from the inside structural walls.
- B. A fee assessment ordinance shall be adopted for each subsequent calendar year in accordance with the requirements of Kansas Statutes.

(History: Ord. BID-2586 §1, 2005; BID-2368 §1, 2002; BID-1988 §3, 96; BID-1614 §1, 89; BIS-1526 §2, 88)

**2.14.080 Administration.**

- A. Businesses to be assessed an annual business improvement service fee shall be surveyed by the City of Overland Park, Kansas (hereinafter "City"), in November and billed by the City prior to December 1, except as otherwise provided in this Section. The City may contract with any person, including, but not limited to, the not-for-profit corporation with which the City contracts for other specified services within the district, to do the business surveying specified in this Section. Businesses shall either pay the fee in one installment due January 1, or may elect to pay the fee in two equal installments, the first installment due January 1 and the second installment due June 1, to the City of Overland Park, 8500 Santa Fe Drive, Overland Park, Kansas, 66212, c/o City Clerk. There shall be no grace period for any business. If the business elects to make only one installment payment, and the fee is not paid by February 15, there shall be added to the fee a late charge of twenty-five per cent (25%) of that fee, and payment in full must be made of the entire amount. If the business intends to elect to make two equal installment payments, the first payment must be paid by February 15. If the first equal installment payment is not received by that date, that business may not elect a two payment option, and payment in full must be made of the full installment and penalty. If the business elects to make two equal payments, and the first installment is timely paid but the second payment is not paid by June 15, a late charge of twenty-five per cent (25%) of that installment will be imposed, and payment in full must be made of that installment and penalty. When invoices for the current fees are sent each year, all unpaid past due amounts will be added to the amount of the current invoice and the new billing will be for a cumulative amount of all outstanding fees, penalties and costs. If it becomes necessary to utilize the services of a collection agency, a collection attorney or court action in order to collect all outstanding obligations then due and owing, including, without being limited to, all overdue fees, penalties, costs and other charges, then the actual cost to the City of said collection agency, collection attorney or court costs shall be added to the amount due the City, shall become part of the final court judgment, if court action is necessary, and all such amounts shall be a legal obligation of the business being assessed.
- B. The following standards shall apply to the assessment, collection and prorating of fees:
1. If a new business becomes located within the District after the annual survey and assessment period, but prior to or on January 1 of a calendar year, that business will be assessed a full year's fee for the forthcoming year; provided, however that if a previous business at that location was assessed a fee, and paid the fee, or portion thereof, for the forthcoming year before vacating the premises, a credit will be given to the new business for that payment. Any unpaid fees will be the joint and several responsibilities of the previously assessed business and the new business, but in no event will duplicate fees be collected.

2. If a new business becomes located within the District after January 1 but prior to July 1 that new business shall be assessed one-half the annual fee for the period from July 1 through December 31 of that year. If a previous business at that location was assessed a fee, and paid that fee or a portion thereof, for that period between July 1 and December 31, a credit will be given to the new business for that payment. Any unpaid fees will be the joint and several responsibilities of the previously assessed business and the new business, but in no event will duplicate fees be collected.
  3. If a new business becomes located within the District after July 1, that new business will not be assessed any fees for the balance of the year. The fees for that year, if any have been assessed to a previous business, shall remain the sole responsibility of the previous business.
  4. No refunds for fees paid will be given to any business properly assessed a fee, regardless of when they vacate the premises and whether or not a new business subsequently becomes located within that location during the balance of the year for which said fees were paid.
  5. For the purposes of this Section, the term “new business” shall refer to a business that begins a new period of operation at a location within the District. If a lessee business vacates the premises or goes out of business after January 1, the fact that if, during the balance of that year only, the owner holds the property for lease, sale or investment for the balance of that year shall not require the owner to pay an assessment for the balance of that year. If the premises continues to be held for lease, sale or investment after December 30 of that year, an assessment and billing of the owner shall take place as specified in this Chapter.
- C. To assist in the administration of business improvement service fees, the Downtown Business Improvement District Advisory Board shall meet regularly with the administrative staff hired through such fees.
- D. The City may use business improvement service fees to contract with a not-for-profit corporation to provide specified services within the District.
- E. The Downtown Business Improvement District Advisory Board or its administrative staff hired through the assessed service fees shall submit to the City Clerk, no later than November 1, a complete list of all businesses to be assessed, their address, gross square footage of leased or owned floor area and fee amount.

(History: Ord. BID-2889 §1, 2010; BID-2494 §1, 2004; BID-2368 §2, 2002; BID-1988 §4, 96; BID-1614 §2, 89; BIS-1526 §3, 88)

#### **2.14.090 Protest Petition.**

In the event a protest petition is filed as allowed in K.S.A. 12-1781 et. seq., the voting system shall be one vote per each business assessed, except ownership of unoccupied real estate which shall have one vote per separate location. Separate location shall be defined as each individual building with unoccupied real estate.

(History: Ord. BIS-1526 §4, 88)

**2.14.100 Enforcement.**

- A. The amount of any unpaid fee, together with any late charges, the payment of which is required hereunder, shall constitute a debt due to the City. No civil judgment shall bar or prevent a criminal prosecution for each and every violation of this Ordinance.
- B. It shall be unlawful for any person who is the owner, manager operator, or person in control of any business required to pay a fee pursuant to this Ordinance to continue to operate said business after said fee, and any late charges, 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 and assessed court costs as determined by the court. Each day of said violation shall constitute a separate offense.

(History: Ord. BID-2844 §2, 2009; BIS-1526 §5, 88)

**2.14.110 Validity.**

Should any section, subsection, paragraph, clause or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid or unconstitutional. The Governing Body of the City of Overland Park, Kansas, hereby declares that it would have passed this ordinance and each section, subsection, paragraph, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses, or phrases be declared invalid.

(History: Ord. BIS-1526 §6, 88)

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