

ORDINANCE NO. 20064

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3 AN ORDINANCE introduced by Interim City Manager Doug Gerber establishing a
4 business improvement district to be known as the Topeka Tourism
5 Business Improvement District (“TTBID”) and creating a new
6 Chapter 3.65 TMC addressing services, financing and
7 establishment of a district advisory board in accordance with K.S.A.
8 12-1782 *et seq.*
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10 WHEREAS, the Mayor appointed a District Planning Committee (“Committee”) to
11 study and develop preliminary plans for the establishment and operation of the
12 proposed TTBID for the promotion of tourism in Topeka; and

13 WHEREAS, on March 7, 2017, the Committee submitted a report to the
14 governing body: (1) advocating for the creation of the TTBID to promote tourism, (2)
15 recommending that the boundaries of the proposed TTBID be the City’s boundaries, (3)
16 outlining the additional and extended services needed within the TTBID, (4) estimating
17 the annual cost of providing those services during the next three years and (5)
18 describing the proposed method of financing such costs (“TTBID Report”); and

19 WHEREAS, on March 14, 2017, the governing body announced its intention to
20 consider establishing a TTBID, set a public hearing for May 9, 2017, and directed the
21 City Clerk to publish a notice of the hearing and to mail a copy of the notice to every
22 business within the proposed TTBID (Resolution No. 8865); and

23 WHEREAS, a Notice of Public Hearing authorized by Resolution No. 8865 was
24 duly published in the Topeka Metro News on March 20, 2017, and copies of the said
25 Notice, together with copies of Resolution No. 8865, were sent out by first class mail, at
26 least 30 days prior to May 9, 2017, to all businesses located within the TTBID; and

27 WHEREAS, on May 9, 2017, the governing body conducted the public hearing
28 which was concluded on such date; and

29 WHEREAS, the governing body finds and determines that it is advisable and in
30 the public interest to establish a business improvement district to provide for the
31 administration and financing of additional services within the district and to promote the
32 economic vitality of the district and the development, promotion and support of
33 community events and activities.

34 NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE
35 CITY OF TOPEKA that:

36 Section 1. That The Code of the City of Topeka, Kansas, is hereby amended
37 by adding a section, to be numbered 3.65.010, which said section reads as follows:

38 **Name of district; boundaries; start date; termination.**

39 (a) The name of the business improvement district shall be the Topeka
40 Tourism Business Improvement District (“District”) which boundaries shall be
41 coterminous with the boundaries of the City of Topeka.

42 (b) The District shall commence on January 1, 2018 and terminate at 11:59
43 p.m. on December 31, 2027.

44 Section 2. That The Code of the City of Topeka, Kansas, is hereby amended
45 by adding a section, to be numbered 3.65.020, which said section reads as follows:

46 **Description of services.**

47 (a) The services to be provided within the District will include the architectural
48 design for the downtown Topeka plaza and the services identified in K.S.A. 12-1784
49 and amendments thereto.

50 (b) The city manager will contract with the Topeka Lodging Association to
51 manage and provide services to the District in accordance with the program of services

52 and budget adopted pursuant to TMC 3.65.040.

53 Section 3. That The Code of the City of Topeka, Kansas, is hereby amended
54 by adding a section, to be numbered 3.65.030, which said section reads as follows:

55 **Method of financing; service fee.**

56 (a) The method to be used to raise the revenue needed to finance the
57 services will be a service fee to be levied on all hotels within the District pursuant to
58 K.S.A. 12-1791 and amendments thereto. A “hotel” is defined as any structure or
59 building that contains rooms furnished for the purpose of providing lodging and is used,
60 maintained, advertised or held out to the public as a place where sleeping
61 accommodations are sought for pay or compensation by transient guests.
62 Notwithstanding the foregoing, the fee will not be imposed on the following stays at a
63 hotel: room(s) rented as a direct purchase by the federal government, its agencies or
64 instrumentalities; and room(s) rented to the same guest for more than 28 consecutive
65 days (in other words, to a permanent guest or resident of the hotel).

66 (b) Remittance of service fee. Each hotel shall remit the service fee to the
67 City within 25 days of the close of each calendar month, in an amount established
68 annually, by ordinance pursuant to K.S.A. 12-1791 and amendments thereto, after
69 submission of a recommended program of services and a proposed budget from the
70 advisory board to the governing body pursuant to K.S.A. 12-1790 and amendments
71 thereto. The finance department may retain two percent (2%) of the fees to cover the
72 cost of administration.

73 (c) Delinquencies.

74 (1) Any hotel that fails to remit any fee imposed within thirty (30) days

75 of the date the fee is due shall pay a penalty of ten percent (10%) of the fee in
76 addition to the amount of the fee.

77 (2) In addition to the penalties imposed, any hotel that fails to remit any
78 fee imposed shall pay interest at the rate of one-half of one percent (0.5%) per
79 month, or fraction thereof, on the amount of the fee, exclusive of penalties, from
80 the date on which the remittance first became delinquent until paid.

81 (3) Every penalty imposed and such interest as accrues under the
82 provisions of this section shall become part of the fee herein required to be paid.

83 Section 4. That The Code of the City of Topeka, Kansas, is hereby amended
84 by adding a section, to be numbered 3.65.040, which said section reads as follows:

85 **Business improvement district advisory board.**

86 (a) The initial advisory board shall be comprised of seven members appointed
87 by the Topeka Lodging Association and consisting of five representatives from hotels
88 and two individuals who represent the travel and tourism industry. The members shall
89 serve a term of office commencing on the date of appointment and expiring on
90 December 31, 2017.

91 (b) On and after January 1, 2018, the advisory board shall be comprised of
92 seven members to be appointed by the mayor with the consent of the council. Five
93 members shall be representatives from hotels that are current in the payment of their
94 service fees. Two members shall be representatives from the travel and tourism
95 industry.

96 (c) The Topeka Lodging Association may submit a list of nominees to the
97 mayor. If a nominee is not appointed by the mayor, with consent of the council, the

98 Association may submit additional name(s) for consideration. If the Association fails to
99 provide a nominee(s), the mayor may appoint, with the consent of the council, a person
100 who meets the requirements in subsection (b).

101 (d) Of the members appointed to the advisory board, four shall be appointed
102 for a term of two years commencing on January 1, 2018, and three shall be appointed
103 for a term of one year commencing on January 1, 2018. Members shall not serve
104 beyond the end of their appointed terms. Upon expiration of a term, the position shall
105 remain vacant until a successor is appointed. On the expiration of the term of each
106 board member, subsequent terms shall be for a period of two years. Any vacancy
107 occurring in the membership of the advisory board shall be filled by nominations from
108 the Topeka Lodging Association pursuant to subsection (c) and appointment of the
109 mayor with the consent of the city council for the unexpired term.

110 (e) The advisory board shall, pursuant to K.S.A 12-1790 and amendments
111 thereto and not later than May 15 of each year, submit to the governing body a
112 recommended program of services to be performed or provided within the District during
113 the following calendar year and a proposed budget to accomplish these objectives.

114 Section 5. This ordinance, which is subject to the protest provisions of K.S.A.
115 12-1789 and amendments thereto, shall take effect upon its passage, approval and
116 publication in the official City newspaper, but shall be subject to repeal if, within 45 days
117 following publication of the ordinance, a sufficient petition by the owners of a majority of
118 the businesses located within the District is submitted to the City Clerk to compel repeal
119 of this ordinance and dissolution of the District.

120 Section 6. This ordinance shall supersede all ordinances, resolutions or rules,

121 or portions thereof, which are in conflict with the provisions of this ordinance.

122 Section 7. Should any section, clause or phrase of this ordinance be declared
123 invalid by a court of competent jurisdiction, the same shall not affect the validity of this
124 ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

125 ADOPTED and APPROVED by the Governing Body May 9, 2017.

126 CITY OF TOPEKA, KANSAS

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Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk