

ORDINANCE NO. 18-10965

AN ORDINANCE LEVYING SALINA BUSINESS IMPROVEMENT DISTRICT
NUMBER 1 SERVICE FEES FOR 2019 IN ACCORDANCE WITH K.S.A. 12-
1791, AND REPEALING ORDINANCE NUMBER 17-10908

WHEREAS, the Advisory Board of the Salina Business Improvement District Number 1, (herein the "BID") has recommended a program of services and submitted a proposed budget for the calendar year 2019; and,

WHEREAS, it is necessary that the Governing Body, by ordinance, levy the business improvement district service fees which shall be applicable only to businesses located within the BID as established by Ordinance Number 83-8971; SO NOW, THEREFORE

BE IT ORDAINED by the Governing Body of the City of Salina, Kansas:

Section 1. For the purposes of this ordinance the following terms shall be defined as stated:

- a. "Apartment building" shall mean "those buildings in which are located more than three residential units for rent."
- b. "Business" shall mean "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 ownership of real estate which is unoccupied and which is held for investment purposes, for sale or lease, shall be considered a business."
- c. "Services" shall mean "governmental functions, programs, activities, facilities improvements and other services which a city is authorized to perform or provide."
- d. "Worker" shall mean "a person who works predominately at the site of a business located within the business improvement district for compensation by the business as an owner or worker, but not as an independent contractor."

Section 2. Effective January 1, 2019, there is hereby levied and assessed against all businesses located within the BID an annual business improvement district service fee on each business located within the BID ("annual BID service fee") according to the following scale:

<u>Santa Fe District</u>	
<i>Included businesses:</i>	Ground-floor businesses addressed on Santa Fe and with front footage abutting Santa Fe Avenue between Ash Street and Mulberry Street
<i>Base fee per business:</i>	\$240.00
<i>Plus frontage rate:</i>	\$10.25 per front footage abutting Santa Fe Avenue
<i>Combined maximum fee per business:</i>	\$1,430.00

<u>Employment District</u>	
<i>Included businesses:</i>	All businesses located between Ash Street and South Street not included within Santa Fe District
<i>Base fee per business:</i>	\$143.00
<i>Plus fee per worker based upon total workers:</i>	Workers 2 through 10 \$49.00 per worker Additional workers - \$25.00 per worker

<i>Maximum fee per business:</i>	2 to 10 workers -	\$ 477.00
	11 to 50 workers -	\$ 955.00
	51 or more workers -	\$1,426.00

<u>Hospital/Mill District</u>	
<i>Included businesses:</i>	All businesses located between Elm Street and Ash Street and between South Street and Prescott Street
<i>Base fee per business:</i>	\$95.00
<i>Plus fee per worker based upon total workers:</i>	Workers 2 through 10 - \$32.00 per worker Additional workers - \$18.00 per worker
<i>Maximum fee per business:</i>	2 to 10 workers - \$ 311.00 11 to 50 workers - \$ 645.00 50 or more workers - \$ 978.00

Section 3. For purposes of this annual BID service fee ordinance:

- a. State law exclusion. All property owned or used exclusively for state, county, municipal, literary, educational, scientific, religious, benevolent and charitable purposes shall be excluded from the provisions of this ordinance in accordance with State law.
- b. Accessory residential dwelling exclusion. Residential dwellings, accessory to and located above or below the ground floor of another principal use shall be excluded from the provisions of this ordinance.
- c. Calculation of number of workers. The number of workers of a business shall be determined by dividing the total number of worker hours per week as of January 1, 2019, by forty hours and rounding to the nearest whole number.
- d. Vacant buildings. The annual BID service fee for a vacant building in the employment or hospital/mill district shall be calculated as if the building is occupied, but with no workers. The service fee for a vacant building in the Santa Fe District shall be the same as if the building is occupied.
- e. Vacant lots. The annual BOD service fee for a vacant lot shall be the base service fee for the district in which the vacant lot is located.
- f. Parking lots. The annual BID service fee for a parking lot in which parking spaces are leased or rented for a charge shall be the base service fee for the district in which the parking lot is located. No service fee shall be assessed for a parking lot which is accessory to a business and in which no parking spaces are leased or rented for charge.
- g. Apartment buildings. The annual BID service fee under this ordinance for each apartment building shall be the base service fee for the district in which the apartment building is located.
- h. Application of maximum fee per business: In the case of a single business located in more than one district, the highest maximum annual BID service fee for a district in which the business is partially located shall apply.

Section 4. Each business located within the BID shall be required to register on forms provided by the BID. Registration forms shall provide sufficient information to identify and contact the business and shall include business name, location address, mailing address, tax identification number, business owner name, telephone number, and address. In the event of a responsible

party for the business other than the owner, the responsible party's name, address and telephone number shall also be included. Additional information may be required if necessary for efficient administration. Renewal registration shall be required only in the event of a change in ownership or responsible parties; however, substantive information changes shall be reported.

Section 5. Any administrative interpretations or determinations necessary toward the fair and equitable application of this ordinance shall be made by the City Manager.

Section 6. All annual BID service fees collected pursuant to this ordinance shall be expended for the services outlined in the Recommended Program of Services and according to the budget as recommend by the BOD Advisory Board.

Section 7. Any business subject to an annual BID service fee levied pursuant to Section 1 will be billed in full on January 1 and the annual BID service fee shall be due and payable on the following February 1 of each year; provided however, that at the request of any business with an annual BID service fee in excess of \$240, the business may be billed and that annual BID service fee shall be due and payable as follows:

- a. Annual BID services fees of \$241 to \$500 may be billed on a quarterly basis on January 1, April 1, July 1, and October 1, and shall be due and payable within 30 calendar days thereafter.
- b. Annual fees in excess of \$500 may be billed on a monthly basis on the first day of each month and shall be due and payable within 30 days thereafter.

A finance charge of 1.5% per month shall be assessed on any past due balance.

If any quarterly or monthly installment remains unpaid sixty (60) days following the due date of the installment, the full balance of the annual BID service fee for that business shall be immediately due and payable and the business shall lose the privilege of electing to pay the annual BID service fee in installments for the remainder of the current year and for the following year. (the "disqualification period") If the business is current in payments of all prior annual BID service fees and any applicable finance charges at the close of the disqualification period, the business may again elect to pay the annual BID service fee in the applicable number of installments.

Section 8. That if a business ceases operation within the BID and is delinquent in the payment of its BID service fee, the business shall be obligated to pay the daily prorated share of its annual BID service fee, until a new business occupies the property. The new business shall then be assessed upon the same daily prorated basis for the balance of the year. In no case shall the same BID service fee be charged to both a tenant business and a property owner.

Section 9. That if a business moves from the BID after paying a service fee, the business may request a refund for the daily prorated share of the service fee paid, based upon the number of paid days the business will no longer operate within the BID. (For example: If ABC Retailer has paid its second quarterly payment and ceases operation within the BID on April 25th, ABC Retailer would be entitled to request a refund of its annual service fee divided by 365, multiplied times the 66 days remaining in the second quarter). Any request for a refund under this section must be filed no later than 30 days after requesting business ceases operation within the BID.

Section 10. That the annual BID service fee levied by this ordinance shall be enforced in the following manner:

- a. The amount of any delinquent BID service fee shall constitute a debt due to the City.
- b. At the direction of the City Manager or the City Manager's designee, the City Attorney or another attorney contracted for that purpose shall institute a civil suit in the Saline County District Court in the name of the City to recover any such unpaid BID service fee and late fees. When appropriate, the City Manager or the City Manager's designee may institute a small claims action to recover any unpaid BID service fee and fiancé charges. Any legal fees or costs associate with such civil actions shall be charged to the BID Fund either directly, or through the Salina Downtown, Inc. budget.
- c. The City Manager may contract with a collection agency for collection of delinquent BID service fees.
- d. The City Manager is authorized to file under the State Setoff program for debt collection.

Section 11. No civil judgement shall bar or prevent a criminal prosecution for each and every violation of this ordinance. That any person convicted of violating this ordinance shall be fined an amount no greater than \$500.

Section 12. That Ordinance Number 17-10908 is hereby repealed.

Section 13. This ordinance shall be in full force and effect from and after its adoption and publication by the following summary once in the official city newspaper.

Ordinance No. 18-10965 Summary

On August 27, 2018, the City Commission passed Ordinance 18-10965. The Ordinance establishes service fees for 2019 within the Salina Business Improvement District Number 1. A complete copy of the Ordinance can be found at www.salina-ks.gov or in the office of the City Clerk, 300 W. Ash, free of charge. This summary is certified by the City's legal counsel.

Introduced: August 20, 2018

Passed: August 27, 2018

PASSED by the governing body of the City on August 27, 2018 and signed and **APPROVED AND SIGNED** by the Mayor.

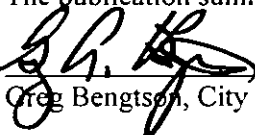
(SEAL)


Karl F. Ryan, Mayor

ATTEST:


Shandi Wicks, CMC, City Clerk

The publication summary set forth above is certified this 28 day of August, 2018.


Greg Bengtson, City Attorney