

ORDINANCE NO. 25-02

AN ORDINANCE AUTHORIZING THE CREATION OF THE THIRD STREET SOCIAL COMMUNITY IMPROVEMENT DISTRICT IN THE CITY OF OLATHE, KANSAS; AUTHORIZING THE MAKING OF CERTAIN PROJECT IMPROVEMENTS RELATING THERETO; APPROVING THE ESTIMATED COSTS OF SUCH PROJECT IMPROVEMENTS; LEVYING A COMMUNITY IMPROVEMENT DISTRICT SALES TAX WITHIN SUCH DISTRICT; PROVIDING FOR THE METHOD OF FINANCING THE SAME; AND RATIFYING A DEVELOPMENT AGREEMENT.

WHEREAS, K.S.A. 12-6a26 *et seq.* (the “Act”) authorizes the governing body of any city or county to create community improvement districts to finance projects within such defined area of the city or county and to levy a community improvement district sales tax upon property within the district to finance projects; and

WHEREAS, a petition (the “Petition”) was filed with the City Clerk on November 13, 2024, proposing the creation of the Third Street Social Community Improvement District (the “District”) under the Act and the imposition of a community improvement district sales tax (the “CID Sales Tax”) in order to pay the costs of the project as described in the Petition (the “Project”); and

WHEREAS, the Petition was signed by the required number of owners of record, whether resident or not, as required by the Act; and

WHEREAS, the Governing Body of the City of Olathe, Kansas (the “City”) intends to create the District and to levy the CID Sales Tax as requested in the Petition; and

WHEREAS, the Act provides that prior to creating any community improvement district and imposing a community improvement district sales tax, the governing body shall, by resolution, direct and order a public hearing on the advisability of creating such community improvement district and the construction of such community improvement district projects therein, and to give notice of the hearing by publication at least once each week for two (2) consecutive weeks in the official City newspaper and by certified mail to all property owners within the proposed community improvement district, the second publication to be at least seven (7) days prior to the hearing and such certified mail sent at least ten (10) days prior to such hearing; and

WHEREAS, the Governing Body adopted Resolution No. 24-1070 on December 3, 2024 (the “Resolution”) directing that a public hearing on the proposed District within the City be held on January 7, 2025, declaring its intent to impose the CID Sales Tax, and requiring that the City Clerk provide for notice of such public hearing as set forth in the Act; and

WHEREAS, the City, as sole property owner within the District, waived certified mail receipt of the Resolution, and the Resolution was published once each week for two (2) consecutive weeks in *The Legal Record*, the official City newspaper, on December 10, 2024 and December 17, 2024; and

WHEREAS, on January 7, 2025, the Governing Body conducted a public hearing on the proposed District; and

WHEREAS, the Governing Body hereby finds and determines it to be advisable to create the District and set forth the boundaries thereof, authorize the Project as described herein, approve the estimated

costs of the Project and approve the method of financing the same, all in accordance with the provisions of the Act; and

WHEREAS, the Development Agreement (Third Street Social), dated August 14, 2024 (the “Development Agreement”) between the City and 3rd Olathe Real Estate LLC, a Kansas limited liability company, has been presented for consideration in connection with the District and the Project.

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

SECTION 1. Creation of Community Improvement District; Boundaries. The Governing Body hereby finds and determines that it is advisable to create, in accordance with the provisions of the Act, the District within the City to be referred to as the Third Street Social Community Improvement District. A legal description of the boundaries of the proposed District is set forth on **Exhibit A**, attached hereto and incorporated by reference herein. A map generally outlining the boundaries of the proposed District is attached as **Exhibit B**, attached hereto and incorporated by reference herein.

SECTION 2. Authorization of Community Improvement District Projects and Estimated Costs.

(a) The general nature of the Project is to renovate, redevelop or improve the District to include: (i) the existing 8,500 square foot structure to be used as a Class A restaurant establishment similar to Third Street Social located in Lee’s Summit and (ii) 3,000 square feet of other Class A restaurant, retail, or other commercial use generally located within and/or contiguous to any portion of the District; related soft costs of the Project as further described in the Development Agreement; and the City’s administrative costs in establishing and maintaining the District, and other items collectively permitted to be financed within the District under the Act.

(b) The total estimated cost of the Project is \$6,071,163.

SECTION 3. Method of Financing.

(a) A portion of the costs of the Project will be financed with the CID Sales Tax levied pursuant to the provisions of the Act and reimbursed on a pay-as-you-go basis, as defined in the Act. The CID Sales Tax is hereby imposed at the rate of **2.0%** on the sale of tangible personal property at retail or rendering or furnishing services which are taxable pursuant to the Kansas Retailers’ Sales Tax Act (K.S.A. 79-3601 *et seq.*) within the District with such CID Sales Tax to commence on October 1, 2025 or such other date as the governing body of the City sets by ordinance and continue for a period of twenty-two (22) years or such earlier date as provided in the Development Agreement.

(b) There will be no issuance of bonds, including full faith and credit bonds, pursuant to the Act.

(c) There will be no District special assessments.

SECTION 4. Segregation of CID Sales Tax Revenues. All revenues derived from the collection of the CID Sales Tax shall be deposited into a special fund of the City to be designated as the Third Street Social Community Improvement District Revenue Fund. Such revenues shall be used to pay the costs of the Project.

SECTION 5. Development Agreement. The Development Agreement is hereby ratified and approved by the Governing Body.

SECTION 6. Recording. The City Clerk shall file a certified copy of this Ordinance with the Register of Deeds of Johnson County, Kansas

SECTION 7. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the Governing Body of the City and publication once (or a summary thereof) in the official City newspaper.

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PASSED by the Governing Body on this 7th day of January, 2025 and **APPROVED AND SIGNED** by the Mayor.

CITY OF OLATHE, KANSAS

By: _____
John Bacon, Mayor

[SEAL]

ATTEST:

Brenda Swearingian, City Clerk

EXHIBIT A

**LEGAL DESCRIPTION OF THE THIRD STREET SOCIAL
COMMUNITY IMPROVEMENT DISTRICT**

All of Lots 27, 28, 29, and 30, Block 53, Town of Olathe, a subdivision of land in the City of Olathe, Johnson County, Kansas.

ALSO INCLUDING:

All adjacent Right-of-Way.

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EXHIBIT B

MAP OF THIRD STREET SOCIAL COMMUNITY IMPROVEMENT DISTRICT

The following property located in Johnson County, Olathe, Kansas:



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(Published in *The Legal Record* on January 14, 2025)

SUMMARY OF ORDINANCE NO. 25-__

On January 7, 2025, the City Council of the City of Olathe, Kansas passed an ordinance entitled:

AN ORDINANCE AUTHORIZING THE CREATION OF THE THIRD STREET SOCIAL COMMUNITY IMPROVEMENT DISTRICT IN THE CITY OF OLATHE, KANSAS; AUTHORIZING THE MAKING OF CERTAIN PROJECT IMPROVEMENTS RELATING THERETO; APPROVING THE ESTIMATED COSTS OF SUCH PROJECT IMPROVEMENTS; LEVYING A COMMUNITY IMPROVEMENT DISTRICT SALES TAX WITHIN SUCH DISTRICT; PROVIDING FOR THE METHOD OF FINANCING THE SAME; AND RATIFYING A DEVELOPMENT AGREEMENT.

In accordance with a petition submitted by the property owner, the Ordinance: authorizes the creation of a community improvement district (“CID”) located approximately at the at the northwest corner of W. Loula Street and S. Kansas Avenue within the City of Olathe, Kansas (the “City”); authorizes certain projects therein; and levies a 2.0% CID sales tax within the CID to pay certain costs of such projects, all pursuant to K.S.A. 12-6a26 et seq. The Ordinance also ratifies a Development Agreement between the City and developer relating to the CID and the related projects.

A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk, 100 E. Santa Fe Street. A reproduction of the Ordinance is available for not less than 7 days following the publication date of this Summary at <http://www.olatheks.org/government/city-clerk/public-notices>.

This Summary is hereby certified to be legally accurate and sufficient pursuant to the laws of the State of Kansas.

DATED: January 7, 2025.

Ronald R. Shaver, City Attorney