

ORDINANCE NO. 13487

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, BY ADDING A NEW CHAPTER 11, ARTICLE XXI, DOWNTOWN CENTRAL BUSINESS IMPROVEMENT DISTRICT (DOWNTOWN CBID), SECTIONS 11-525 THROUGH 11-534.

SECTION 1. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That Chattanooga City Code, Part II, be amended by adding a new Chapter 11, Article XXI, Downtown Central Business Improvement District (Downtown CBID), Section 11-525 through 11-534, as follows

**DOWNTOWN CENTRAL BUSINESS
IMPROVEMENT DISTRICT
(DOWNTOWN CBID)**

Sec. 11-525. District Created; Boundary.

There is established and created the Chattanooga Downtown Central Business Improvement District, pursuant to the Central Business Improvement District Act of 1990, under T.C.A., Title 7, Chapter 84, Part 5, which shall include all properties within that area of the city bounded and generally described as follows:

A portion of Downtown Chattanooga bounded roughly by the Tennessee River to the North, US-27 to the West, 11th Street to the South, and primarily Cherry Street and Georgia Avenue to the East. The boundary shall extend through the centerline of 11th Street, Cherry Street, Georgia Avenue, and any other thoroughfare along its exterior boundaries as illustrated on the Map set out at the end of this Section.

Sec. 11-526. Purposes and Mission.

A. The City Council hereby finds and declares that the establishment of the Downtown CBID will promote the successful and continued revitalization of Downtown Chattanooga, thereby furthering the health, safety, and general economic welfare of Downtown Chattanooga.

B. The purpose and mission of the Downtown CBID is hereby declared to be: To undertake and provide an enhanced level of programs and services, not currently provided by the City government of Chattanooga, which will help maintain the Downtown CBID area as a clean, safe and vibrant place to work, live, shop, play and invest.

Sec. 11-527. Liberal Construction.

This ordinance, being necessary to secure and preserve the public health, safety, convenience and welfare, shall be liberally construed to effectuate its purposes.

Sec. 11-528. Definitions.

As used in this ordinance, unless a contrary meaning clearly appears:

“*Assessed value*” means value as assessed for municipal tax purposes.

“*CBID Board*” or “*Board*” means the board created herein to serve as the District Management Corporation.

“*City*” means the City of Chattanooga, Tennessee.

“*Commercial Property*” means any commercial property, multi-family residences, apartments, or property owned by an institutional non-profit entity located in the District

“*County*” means Hamilton County, Tennessee.

“*District*” or “*Downtown Central Business Improvement District*” or “*Downtown CBID*” means the central business improvement district created by this ordinance.

“*District Management Corporation*” means the board or organization created or the organization appointed to act as an advisory board for the purpose of making and carrying out recommendations for the use of special assessment revenues, and for the purpose of administering activities within and for the District and the provision of services and projects within and for the District.

“*Initiating petition*” means the petition filed in the Office of the City Clerk requesting the establishment of the Downtown CBID.

“*Owner*” means the record owner of real property in fee or a representative of such owner duly authorized to act for and on behalf of said owner.

“*Residential Condominium*” means an estate in real property, created under the Tennessee Horizontal Property Act or the Tennessee Condominium Act of 2008, consisting of ownership of a fractional undivided fee interest in common with other unit owners in common elements, together a separate fee interest in a unit and all appurtenant rights, title, and interests.

Sec. 11-529. District Management Corporation.

A. There is hereby authorized and established a CBID Board to serve as the District Management Corporation for the purpose of administering the special assessment revenues and the activities within and for the Downtown CBID, the making of improvements within and for the Downtown CBID, and the provision of services and projects within and for the Downtown CBID.

B. The CBID Board shall consist of at least nine (9) but no more than fifteen (15) members. Three (3) members shall be appointed as provided in Subsections C and D below. The CBID Board shall select members to serve staggered, three-year terms, limited to serving two (2) consecutive full terms. These CBID Board members shall be Owners or Lessees of Commercial Property within the district. At least two (2) of these CBID Board members shall be large property Owners (an Owner of a major hotel property or commercial office building in the district) and at least two (2) shall be small property Owners (an Owner of commercial property other than major hotel or office buildings in the District). At least two (2) members shall be commercial tenants (defined as any lessee of commercial property within the district) and at least one (1) member shall be a Residential Condominium Owner in the District. At least one CBID Board member must own property North of 4th Street, and at least one CBID Board member shall own property South of 4th Street. The seats shall be filled at an annual meeting upon nomination by the outgoing CBID Board members.

C. The Speaker of the Senate of the State of Tennessee shall appoint the Senator whose senate district includes the majority of the area contained within the Downtown CBID to serve as an ex officio member, and the Speaker of the House of Representatives of the State of Tennessee shall appoint the representative whose house district includes the majority of the area contained within the Downtown CBID as an ex officio member. The ex officio members shall serve for the term for which they are elected and shall not be counted in determining the presence of a quorum.

D. The member of City Council whose council district represents the majority of the CBID area, and/or his/her designee, shall serve as a member of the CBID Board for the term for which they are elected.

E. Vacancies on the CBID Board for elected members shall be filled by the remaining Board members present and voting to fill the vacancy.

Sec. 11-530. District Management Corporation Powers.

A. In furtherance and not in limitation of the general powers conferred upon a central business improvement district by Chapter 84 of Title 7 of the Tennessee Code Annotated, and in keeping with the purposes of the Downtown CBID set forth herein, it is expressly provided that the District Management Corporation shall have the following powers as follows:

1. Maintenance and cleaning services;
2. Hospitality services;

3. Streetscape and landscape programs;
4. Communications and marketing, district advocacy and management;
5. To provide services for the improvement and operation of the Downtown CBID and to supplement those provided by the City Government, as follows:
 - a. Promoting and marketing;
 - b. Advertising;
 - c. Health and sanitation;
 - d. Public safety;
 - e. Elimination of problems related to traffic and parking;
 - f. Security services;
 - g. Recreation;
 - h. Cultural enhancements;
 - i. Activities in support of business or residential recruitment, retention and management development;
 - j. Aesthetic improvements, including the decoration, restoration or renovation of any public space or of building facades and exteriors in public view which confer a public benefit;
 - k. Professional management, planning and promotion of the district;
 - l. Furnishing of music in any public place;
 - m. Design assistance;
 - n. Consulting with respect to planning, management, and development activities; and
 - o. Such other services as are authorized by Tennessee Code Annotated § 7-84-520.
6. To enter into contracts and agreements with other persons or entities.
7. To hire employees or retain agents, engineers, architects, planners, consultants, attorneys and accountants.
8. To acquire, construct, install and operate public improvements contemplated by this ordinance and all property rights or interests incidental or appurtenant thereto, and to dispose of real and personal property and any interest therein including leases and easements in connection therewith.
9. To manage, control, and supervise:
 - a. All the business and affairs of the Downtown CBID
 - b. The acquisition, construction, and installation and operation of public improvements within the Downtown CBID; and
 - c. The operation of the Downtown CBID services therein.

10. To construct and install improvements across and along any public street, alley, highway, stream of water or water course in accordance with state and local laws, rules, and regulations.
11. To exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this section.
12. Other proposed uses of special assessment revenue within the Downtown CBID including employing persons to perform or contracting for the performance of such services as office administration, bookkeeping, engineering and architectural services, urban planning, legal services, accounting and auditing services and other similar services.

B. All services to the Downtown CBID listed above shall be provided by the District Management Corporation as a service to and in support of the City or County government and such services are to be paid for out of revenues from the special assessment. In carrying out these responsibilities, the District Management Corporation must comply with all applicable provisions of laws, including Chapter 84 of Title 7 of Tennessee Code Annotated, all City resolutions and ordinances and all regulations lawfully imposed by the state auditor or other state agencies.

C. The special assessment shall be used to supplement and not to pay for the same level of services provided by the City or County government within the Downtown CBID. In no event will the level of governmental services provided to the Downtown CBID be decreased as a result of the enhanced level of services provided through the special assessment revenues. The City shall produce an annual report documenting the baseline services provided by the City in the Downtown CBID area, which report shall be delivered to the CBID Board and made publicly available.

D. Penalty and interest in the amount permitted by state law are authorized to be added to any such assessment or installment thereof not paid on or before the date prescribed by the District Management Corporation.

Sec. 11-531. Estimated Costs and Rate of Levy; Special Assessment Procedure.

A. The estimated cost of the initially proposed improvements, service projects and other permitted uses of special assessment revenues is One Million and No/100 Dollars (\$1,000,000.00).

B. A special assessment shall be collected from all real property within the Downtown CBID in accordance with this Section exclusively for the Downtown CBID, and not for the general tax coffers of the City or County. Notwithstanding the foregoing, or anything contained herein to the contrary, all property owned directly by the City and County shall be exempt from the special assessment in accordance with Tennessee Code Annotated Section 7-84-523. This Downtown CBID will utilize the special assessments which distinguish between (i) Commercial Property and (ii) Residential Condominiums. Commercial Property shall be assessed under the following formula: \$0.09 per square foot of the greater of (i) lot square footage or (ii) building square footage PLUS \$4.95 per linear foot of Lot Frontage on roadways

as these values are listed on the Hamilton County Geographic Information Systems and by the Hamilton County Assessor's Office.

The formula for a Commercial Property is thus: \$0.09 (A) + \$4.95 (B) = Total BID Assessment.

In the first year of the BID, the estimated annual assessments for properties will be as follows:

Total Commercial Property Rate	\$0.09 per square foot of the greater of lot or building square footage PLUS \$4.95 per linear foot of Lot Frontage on roadways
Residential Condominium (Flat Rate; per unit)	\$150.00

C. “Frontage” refers to parcel frontage on all adjoining roadways. All parcel sides that front a street which is serviced by the Downtown CBID are covered, including those located along the exterior boundaries of the Downtown CBID.

D. The Downtown BID assessment for a Commercial Property in a mixed-use building shall be calculated by multiplying \$0.09 by the greater of lot or building square footage. The lot square footage for Commercial Property in a mixed-use building shall be calculated by multiplying the total lot square footage by a fraction, the numerator of which shall be the Commercial Property Owner’s share of the building square footage, and the denominator which shall be the total building square footage. This will be added to the Owner’s Frontage calculation, which shall be calculated by multiplying \$4.95 by the Owner’s share of the Frontage. The Owner’s share of the Frontage is calculated by multiplying the total Frontage by a fraction, the numerator of which shall be the Commercial Property Owner’s building square footage, and the denominator of which shall be the total building square footage. In the event only one Commercial Property Owner borders a roadway in a mixed-use building, that Commercial Property Owner shall be responsible for all Frontage along such roadway.

The formula for a Commercial Property in a mixed-use building is thus:

$\$0.09 (\text{greater of Owner's share of lot or building square footage}) + \$4.95 (\text{Owner's share of Frontage}) = \text{BID Property Assessment for Commercial Properties in mixed-use buildings.}$

E. Parking garages shall be assessed based on Frontage and lot size, rather than building size. In the event a parcel is improved by a building and a parking garage, the square footage of the parking garage shall be deducted from the square footage of the building for the purposes of the building’s special assessment.

F. Non-profit organizations that own real property located within the Downtown CBID may seek reductions and/or waivers of the special assessment on a case-by-case basis each year provided that: (i) the Owner is an institutional nonprofit organization registered under Section 501(c)(3) of the US Internal Revenue Code, (ii) the property is exempt from property taxes under T.C.A. §67-5-212, and (iii) the Owner demonstrates substantial financial and/or economic hardship to the CBID Board, as determined by the CBID Board in its sole discretion.

G. The CBID Board may determine annual adjustments in the special assessment rates at its sole discretion consistent with increases in program services and costs; however, in no event shall annual assessments increase by more than five percent (5%) per annum. A change in the rate of levy of such special assessment may be initiated only by a resolution from the CBID Board. Special assessments shall be imposed and collected annually as set forth hereinabove. Changes in the rate or additions to the rate of the special assessment, upon approval by the CBID Board, may be made only on an annual basis and through a public hearing before the City Council in accordance with T.C.A. §7-84-522(f).

H. Beginning in 2019, special assessments shall be levied against all real property within the Downtown CBID pursuant to a special assessment roll of all Owners within the District as shown in the records of the Assessor of Property for the City Government of Chattanooga and Hamilton County.

I. Notice of the special assessment shall be issued simultaneously with tax notices for regular Hamilton County and City of Chattanooga real property taxes, and revenues from the special assessment shall be collected by the Hamilton County Trustee the extent it is empowered by this ordinance.

J. All CBID Board meetings during the term of this Ordinance shall comply with the Open Meeting requirements of Tennessee Code Annotated Section 8-44-107.

K. The CBID shall be subject to audits pursuant to Ordinance Section 2-510 or other applicable ordinances of the City of Chattanooga every year during the term of this Ordinance before the annual City budget is approved.

Sec. 11-532. Annual Budget.

The CBID Board shall annually submit to the City Council a financial report and a written report of its activities for the preceding year together with a proposed budget for the next year. The annual budget shall include a projection of revenues from the special assessment and a projection of expenditures for projects, services and activities of the CBID Board and shall be reviewed and approved by the City Council, or if not approved shall be returned to the CBID Board for revision and resubmission until the City Council shall approve the annual budget.

Sec. 11-533. PILOT.

During the term of a payment in lieu of ad valorem taxes (PILOT) or tax increment financing (TIF) agreement for real property in the Downtown CBID, the CBID Board may, by resolution, abate the special assessment such that the assessment is based on the assessed value prior to redevelopment of the real property. At the request of the Mayor, the CBID Board shall place the assessment abatement on its agenda and shall consider the assessment abatement at its next regularly scheduled meeting. Failure of the CBID Board to make a decision on the assessment abatement within thirty (30) days of the abatement first appearing on the CBID Board's agenda shall constitute an approval. After the CBID Board makes its decision, any review shall be provided by a court of competent jurisdiction pursuant to T.C.A. § 27-8-101 *et seq.*, T.C.A. § 27-9-101 *et seq.*, or T.C.A. § 29-14-101, *et seq.*

Sec. 11-534. Term.

A. On the fifth (5th) anniversary of the formation of the Downtown CBID, the CBID Board will complete formal evaluation to determine whether the services and assessment methods are consistent with the needs of the District. Pursuant to T.C.A. § 7-84-529, the Downtown CBID may be dissolved upon written petition of the Owners holding seventy-five percent (75%) of the assessed value and fifty percent (50%) of the Owners of record.

B. On the tenth (10th) anniversary of the formation of the Downtown CBID the CBID Board will determine if the Downtown CBID should continue in existence or pursue dissolution in accordance with T.C.A. § 7-84-529.

SECTION 2. BE IT FURTHER ORDAINED, that the District Management Corporation shall indemnify and hold the City harmless from and against all loss, damage, or expense resulting from or arising directly out of the provisions of services or programs provided by the District Management Corporation within the District.

SECTION 3. BE IT FURTHER ORDAINED, That this Ordinance shall take effect immediately from and after its passage.

Passed on second and final reading: July 30, 2019

CHAIRPERSON

APPROVED: DISAPPROVED:

MAYOR

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