

ORDINANCE RECORD

ORDINANCE NO. 4159

AN ORDINANCE PROVIDING FOR AGREEMENT TO THE LEVY OF A RETAIL BUSINESS OCCUPATION TAX; THE LEVY OF A RETAIL BUSINESS OCCUPATION TAX; ESTABLISHING DEFINITIONS; PROVIDING FOR THE ADMINISTRATION, COLLECTIONS, RETURNS, DELINQUENCIES AND RECOVERY OF UNPAID AMOUNTS RELATED TO SUCH OCCUPATION TAX; SPECIFYING HOW SUCH TAX REVENUE WILL BE USED; PROVIDING A SUNSET PROVISION FOR THE TAX; PROVIDING FOR PUBLICATION IN PAMPHLET FORM, PROVIDING FOR AN EFFECTIVE DATE AND RELATED MATTERS

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SCOTTSBLUFF, NEBRASKA AS FOLLOWS:

Section 1. Findings and Determinations. The Mayor and Council of the City of Scottsbluff, Nebraska (the "City") finds and determines as follows:

(a) Pursuant to Chapter 18, Article 21, Reissue Revised Statutes of Nebraska, as amended (the "Act"), the Community Development Agency of the City of Scottsbluff (the "CDA") has prepared and adopted the CITY OF SCOTTSBLUFF REDEVELOPMENT PLAN FOR THE MONUMENT MALL REHABILITATION which, in part, (1) provides for the development of a commercial shopping center (the "Redevelopment Project") in the Redevelopment Project Area as shown on Exhibit "A" (attached and incorporated by reference) and (2) designates the area shown in Exhibit "B" (attached and incorporated by reference) as an "enhanced employment area" as defined in Section 18-2103(22) of the Act (the "Enhanced Employment Area").

(b) Pursuant to Section 18-2142.02 of the Act, the City is authorized to agree to and to levy and collect a general business occupation tax upon the businesses and users of space within the Enhanced Employment Area for the purpose of paying all or any part of the costs and expenses of the Enhanced Employment Project within the Enhanced Employment Area.

(c) It is necessary, desirable, advisable and in the best interests of the City that a general business occupation tax be imposed within the Enhanced Employment Area as provided by the Act for the purpose set forth in Section 1(b).

Section 2. Definitions. As used in this Ordinance, the following words and phrases shall have the meanings ascribed to them in this Section 2, except where the context clearly indicates or requires a different meaning:

(a) "Person" means any natural person, individual, partnership, association, organization or corporation of any kind or character engaging in the business of operating a General Retail Business.

(b) "General Retail Business" means any activity engaged in by any Person or caused to be engaged in by such Person in which products or services are sold, leased or rented for any purpose other than for resale, sublease or subrent, except that "General Retail Business" shall not mean any transaction which is subject to tax under Sections 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602 or 77-4008 of the Nebraska Revised Statutes or which is exempt from tax under Section 77-2704.24 of the Nebraska Revised Statutes.

(c) "Taxpayer" shall mean any Person engaged in the business of operating a General Retail Business as herein defined who is required to pay the tax herein imposed.

Section 3. Agreement to Impose Tax. The City agrees to impose an occupation tax upon every Person operating a General Retail Business within the Enhanced Employment Area, and the Mayor and City Clerk are authorized and directed to execute such documents and take such actions as are necessary to carry out this Ordinance, including, but not limited to, entering into a Redevelopment Contract with the CDA and a redeveloper in substantially the form as set forth in Exhibit "C".

Section 4. Tax Imposed; Collection of Tax.

(a) On or after July 1, 2015 and in each calendar month thereafter there is imposed a retail business occupational tax upon each and every Person operating a General Retail Business within the Enhanced Employment Area for any period of time during a calendar month. The amount of such tax shall be one half percent (0.50%) of all General Retail Business transactions which the State of Nebraska is authorized to impose a tax as allowed by the Nebraska Local Option Revenue Act for each calendar

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Section 11. Recover of Unpaid Tax by Action at Law

(a) The City Manager may also treat any such taxes, penalties or interest due and unpaid as a debt due the City.

(b) In case of failure to pay all or any portion of the tax, or any penalty or interest when due, the City may recover at law the amount of such taxes, penalties and interest in any court of Scotts Bluff County, Nebraska or any other county having jurisdiction over the Taxpayer.

(c) The return of the Taxpayer or the assessment made by the City Manager, as herein provided, shall be prima facie proof of the amount due.

(d) The City Attorney may commence an action for the recovery of taxes due under this Ordinance and this remedy shall be in addition to all other existing remedies, or remedies provided in this Ordinance.

Section 12. Suspension or Revocation of Licenses for Failure to Pay Tax; Hearing. If the City Manager or the City Manager's designee, after holding a hearing, shall find that any Person has willfully evaded payment or collection and remittance of the tax imposed by this Ordinance, such official may suspend or revoke any City license, permit or other approval held by such tax evader. Such Person shall have an opportunity to be heard at such hearing to be held not less than seven (7) days after notice is given of the time and place of the hearing to be held, addressed to the last known place of business of such Person. Pending the notice, hearing and finding, any licensee, permit or other approval issued by the City to the Person may be temporarily suspended. No suspension or revocation shall release or discharge the Person from civil liability for the payment or collection and remittance of the tax, nor from prosecution for such offense.

Section 13. Sunset Provision. The occupation tax imposed by this Ordinance shall terminate and collection of the tax shall cease upon the earlier of 1) payment in full of all indebtedness issued by the City pursuant to the provisions of Section 18-2124 of the Act, for which such occupation tax receipts have been pledged; or, 2) twenty (20) years after the effective date of the Ad Valorem Tax Provision, as provided for in the Redevelopment Contract.

Section 14. Conflicts. All ordinances, resolutions, or orders, or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

Section 15. Severability. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid, the validity of the remainder shall not be affected.

Section 16. Headings of Section Not Controlling. The headings of sections of this Ordinance are set forth for convenience of reference only and shall not affect the construction or interpretation of this Ordinance or any section.

Section 17. Effective Date. This Ordinance shall be published in pamphlet form as authorized by section 16-403 of the Nebraska Revised Statutes with distribution to be made by making copies available to any interested person at the City office and shall take effect on July 1, 2015 following its passage and publication as provided by law.

DATED: May 18, 2015

CITY OF SCOTTSBLUFF, NEBRASKA

By: 

Mayor

ATTEST:

By: 

Clerk



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EXHIBIT "A"

REDEVELOPMENT PROJECT AREA

Lot 3, Block 3, Third Replat of Lots 3 and 4, Block 3, Northeast Second Add Replat No. 2 and Lot 2, Block 3, Northeast Second Add Replat No. 2

EXHIBIT "B"

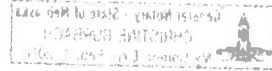
ENHANCED EMPLOYMENT ACT AREA

attached

EXHIBIT "C"

REDEVELOPMENT CONTRACT

attached



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CERTIFICATE OF PASSAGE



County of Scotts Bluff) §
City of Scottsbluff)

I, Cynthia A. Dickinson, City Clerk of the City of Scottsbluff, Scotts Bluff County, Nebraska, hereby certify that the annexed Ordinance purporting to be Ordinance No. 4159 of said City was passed as such by the Mayor and City Council of the City of Scottsbluff, Scotts Buff County, Nebraska, pursuant to the rules and regulations prescribed by general law and by said City for the passage of Ordinances, and was duly approved by the Mayor of said City, passage and approval having been made on the 18th day of May, 2015 with respect to said Ordinance aforesaid which said Ordinance No. 4159 has been published in pamphlet form by authority of the Mayor and Council of said City under direction of its duly constituted authorities pursuant to resolution of the Mayor and Council thereof with copies made available to the public on such date at the office of the City Clerk.

IN WITNESS WHEREOF, I have hereto affixed my hand and the seal of the City of Scottsbluff, Scotts Bluff County, Nebraska, this 18th day of May, A. D., 2015.

Cynthia A. Dickinson
City Clerk

Subscribed and sworn to before me this 18th day of May, 2015.



Christine Burbach
Notary Public