

ORDINANCE RECORD

No. 728-REFIELD & COMPANY INC., OMAHA

ORDINANCE NO. 1386

AN ORDINANCE TO ENACT SECTION 113.30 OF THE LA VISTA MUNICIPAL CODE REGARDING ENHANCED EMPLOYMENT AREAS AND GENERAL BUSINESS OCCUPATION TAXES WITHIN SUBSTANDARD AND BLIGHTED AREAS, USE OF PROCEEDS, AND ADMINISTRATIVE PROVISIONS; PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES; SEVERABILITY; PUBLICATION; AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, as follows:

I. ENACTMENT OF SECTION 113.30 OF THE LA VISTA MUNICIPAL CODE.

Section 113.30 of the La Vista Municipal Code is hereby adopted and approved as follows:

§113.30 ENHANCED EMPLOYMENT AREAS AND GENERAL BUSINESS OCCUPATION TAXES - SUBSTANDARD AND BLIGHTED AREAS

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

- a. **Act** means the Community Development Law set forth in Neb. Rev. Stat. § 18-2101 et seq., as amended.
- b. **Agency** means the La Vista Community Development Agency.
- c. **City** shall mean the City of La Vista and areas within the corporate limits of the City of La Vista, as may be adjusted from time to time.
- d. **City Clerk** means the City of La Vista City Clerk.
- e. **Director** means the City of La Vista Finance Director or her or his designee.
- f. **Engaged in** means to conduct, offer to the public, carry on, or take part in the operation of a business or other activity as owner, operator, or agent in which products or services are sold, leased, or rented for purposes other than resale, sublease, or subrent. Not in limitation of foregoing parts of this subsection "f", a person renting or using a facility, place or premises for a taxable activity as a promoter, producer, one-time event, part-time, full-time, or otherwise, shall be considered to be engaged in a business and taxable activity.
- g. **Enhanced employment area** has the meaning provided in Neb. Rev. Stat. § 18-2103(11)(a), as amended, the boundaries of which are specified by resolution, ordinance, or other action of the City or Agency.
- h. **General business occupation tax** means a tax imposed pursuant to the authority granted by this section.
- i. **Person** means any natural person, individual, partnership, association, organization, corporation, or entity of any kind or character engaging in any activity that is subject to a general business occupation tax authorized by this section.
- j. **Taxpayer** means any person engaged in a business or activity who is required to pay a tax imposed in accordance with this section.

113.30.1 **Intent and Purpose**

- a. The city is authorized to levy a general business occupation tax pursuant to Neb. Rev. Stat. § 18-2142.02 upon the businesses and users of space within an enhanced employment area for the purpose of paying all or any part of the costs and expenses of any redevelopment project within such enhanced employment area.

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- b. Any such tax shall be for revenue purposes. The collection of such a tax shall be made and enforced in such a manner as the city council shall by ordinance determine to produce the required revenue.
- c. The city council determines that it is necessary, desirable, advisable, and in the best interests of the city to periodically impose general business occupation taxes within certain enhanced employment areas, as authorized by the Act and from time to time approved by the city council.

113.30.2 Taxes Authorized

- a. General business occupation taxes pursuant to this section and Neb. Rev. Stat. § 18-2142.02 are authorized and shall be imposed upon such businesses or users of space within such enhanced employment areas, at such times and rates, based on such classifications of businesses, users of space or transactions, for such purposes and periods of time, and subject to such other terms and conditions, as from time to time specified by the city council. Unless otherwise specified by the city council in connection with a particular general business occupation tax and enhanced employment area, taxes shall be payable each calendar month.
- b. Any taxes imposed pursuant to this section 113.30 shall be taxes on the taxpayers for the privilege of engaging in particular occupations within the City. A person engaged in an activity that is subject to a general business occupation tax may elect to itemize the tax levied and pass the cost of the tax through to customers or purchasers on bills, receipts, or other invoices provided to such customers or purchasers, but such itemization and pass-through of the cost of the tax shall not be required and each person engaged in the taxable activity shall remain liable for the tax imposed pursuant to this section.
- c. Taxes imposed pursuant to this Section shall be subject to applicable State or local laws, rules or regulations as adopted or amended from time to time.

113.30.3 Taxes Cumulative

- a. Any tax pursuant to this section shall be in addition to all other fees, taxes, excises, and licenses levied or imposed under any contract or any other provisions of this code or ordinances of the city from time to time, and in addition to any fee, tax, excise, or license imposed by the state or federal government.
- b. Payment of the tax imposed pursuant to this section shall not relieve the person paying the same from payment of any other tax now or hereafter imposed by contract or ordinance or by this article, including those imposed for any business or occupation he/she may carry on, unless so provided therein. The occupation taxes imposed by this article shall be cumulative except where otherwise specifically provided.
- c. Provided, however, operation of a cable television system pursuant to a franchise agreement or operation of a keno lottery game pursuant to an operating agreement with the City shall not be subject to general business occupation taxes under section 113.30.

113.30.4 Term

Any general business occupation taxes imposed pursuant to this section shall commence and remain in effect for such period as specified by the city council, and in any event shall not terminate so long as bonds are outstanding which were issued stating such occupation tax as an available source for payment.

113.30.5 Use of Revenues

Proceeds of any tax imposed pursuant to this section shall be used for the purpose of paying all or any part of the costs and expenses of any redevelopment

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project within such enhanced employment area or for such other purposes as from time to time authorized by the Act or other applicable law.

113.30.6 Return

- a. Unless otherwise specified by the city council in connection with a particular general business occupation tax and enhanced employment area, each and every person engaged in an activity that is subject to a general business occupation tax for any period of time shall prepare and file with the City Administrator or the City Administrator's designee a return for each calendar month and at the same time pay to the City the tax imposed for such month. The return shall be on and in such form and content and include such supporting data as may be prescribed by the City Administrator or the City Administrator's designee from time to time, and shall be verified and sworn to by an officer responsible for the taxpayer, and shall be filed with the City Administrator or City Administrator's designee on or before the last day of the month immediately following receipt of any gross receipts included for purposes of calculating the tax. Returns and tax payments shall be filed and paid (i) by hand delivery or by United States mail, properly addressed, postage prepaid and postmarked no later than the last day of the appropriate month, or (ii) by electronic filing and payment by Automated Clearing House or Credit Card no later than the last day of the appropriate month, and in accordance with such procedures as prescribed by the City Administrator or the City Administrator's designee from time to time.
- b. As reimbursement for any additional administrative costs and expenses connected with the tax, a taxpayer at the time of each tax payment may elect to deduct, withhold, and retain from such payment two percent (2%) of the amount that is otherwise due and payable to the City ("Administration Allowance"). Any payment that is made without reduction for the Administration Allowance shall be deemed an irrevocable election by the taxpayer to forego the Administration Allowance with respect to that payment.

113.30.7 Administration; Remedies

Except as otherwise provided in this Section or any subsequent Ordinance, general business occupation taxes shall be administered in accordance with, and any remedies shall be as provided in, Section 113.50 of the Code.

113.30.8 Construction

In accordance with the Act, powers conferred by this section, levy of any general business occupation taxes pursuant to authority granted by this section, and authority to issue any bonds secured by or payable from any general business occupation tax receipts, shall be additional and supplemental to, independent of and separate from any other occupation taxes or laws, and considered complete and independent and not amendatory or limited by any other provision of law. All provisions of this Section 113.30 and grants of power, authority, rights or discretion herein, and any related documents, instruments or actions of the City or Agency arising out of this Section 113.30, shall be liberally construed, and all incidental powers necessary to carry into effect said provisions are hereby expressly granted and conferred. This Section 113.30 shall be full authority for the powers herein granted, and no action, proceeding or election shall be required to exercise or carry out any such provisions. If the provisions of this Section 113.30 are inconsistent with any other provisions of the Municipal Code or ordinances, the provisions of this Section 113.30 shall control. Except as otherwise expressly provided herein, terms used in this Section 113.30 shall have the meaning as provided in the Act.

II. REPEAL OF CONFLICTING PROVISIONS. Any conflicting provision of any previously enacted ordinance is hereby repealed.

III. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this

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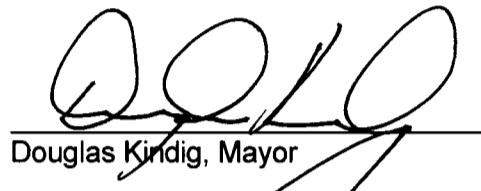
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Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this Ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

IV. PUBLICATION AND EFFECTIVE DATE. This Ordinance shall be published in full and shall be in force and take effect from and after its passage and approval as provided by law.

PASSED AND APPROVED THIS 3RD DAY OF MARCH, 2020.

CITY OF LA VISTA



Douglas Kindig, Mayor

ATTEST:



Pamela A. Buethe

Pamela A. Buethe, CMC
City Clerk