

ORDINANCE RECORD

No. 728-REDFIELD & COMPANY INC., OMAHA

ORDINANCE NO. 1484

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF LA VISTA, NEBRASKA TO AMEND, REPLACE AND SUPERSEDE ORDINANCE NO. 1462 IN ITS ENTIRETY REGARDING AN ENHANCED EMPLOYMENT AREA AND GENERAL BUSINESS OCCUPATION TAXES WITHIN SUCH AREA IN THE VICINITY OF 120TH AND GILES ROAD; TO REVOKE ORDINANCE NO. 1462 AS ORIGINALLY ENACTED, AND TO PROVIDE FOR SEVERABILITY, PUBLICATION AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, that Ordinance No. 1462 is amended, replaced and superseded in its entirety to read as follows:

"I. Findings and Determinations. The Mayor and City Council hereby find, determine, declare, adopt, and approve the following:

- A. Pursuant to Nebraska Statutes, including without limitation Neb. Rev. Stat. section 18-2142.04, and applicable provisions of La Vista Municipal Code sections 113.55 through 113.62, the City is authorized to levy a general business occupation tax upon businesses and users of space within a designated enhanced employment area that is not within a blighted and substandard community redevelopment area, based on a reasonable classification of businesses, users of space, or kinds of transaction, for the purpose of paying all or any part of the costs and expenses of authorized work within the enhanced employment area, or debt service or other costs or expenses in connection with any bonds the proceeds of which are expended for or allocated to authorized work.
- B. Certain hotel or motel businesses and retail sales businesses on or in close proximity to the new multisport complex in the vicinity of 120th and Giles Road ("Nebraska Multisport Complex") are uniquely positioned to attract and benefit from visitors to the area for discretionary activities, including recreation, tourism, and leisure, that will place unique demands on City services, facilities, and resources. Subjecting such businesses to a general business occupation tax for purposes of raising revenues for public improvements or other authorized work within the area is fair, reasonable, just, and appropriate.
- C. Such hotel or motel businesses and retail sales businesses form reasonable classifications of businesses, users of space, or kinds of transaction for purposes of imposing general business occupation taxes and raising revenues.
- D. Based on these findings and in the interests of just, equitable and fair distribution of tax burdens as the City Council in its sole discretion determines appropriate, general business occupation taxes are proposed ("Proposed GBOTs") within a proposed enhanced employment area the boundaries of which shall encompass as a single unitary area all parcels, lots, right of way, creeks, or other real property described or depicted in section II below ("Proposed EEA"), the proceeds of which taxes will fund costs and expenses of authorized work within the Proposed EEA, or debt service or other costs and expenses of bonds the proceeds of which are expended or allocated for such work, pursuant to Neb. Rev. Stat. Section 18-2142.04 and Code sections 113.55 through 113.62.
- E. The Proposed EEA is 600 acres or less, and is not blighted, substandard, or within a community redevelopment area.
- F. In reliance upon written representations and undertakings of property owners within the Proposed EEA, new investment within the Proposed EEA will result in new employees and new investment in accordance with applicable requirements of Neb. Rev. Stat. Section 18-2142.04(2).
- G. It is necessary, desirable, advisable, and in the best interests of the City to designate the Proposed EEA as an enhanced employment area and levy the Proposed GBOTs as general business occupation taxes upon the businesses and users of space within such area, as specified below, for the purpose of paying all or part of the costs and expenses of authorized work within such area, or debt service and other costs and expenses of bonds the proceeds of which are expended or allocated for such purpose, pursuant to Neb. Rev. Stat. Section 18-2142.04.

II. DESIGNATION OF ENHANCED EMPLOYMENT AREA. The City hereby designates, establishes, and approves the Proposed EEA as an enhanced employment area pursuant to Neb. Rev. Stat. Section 18-2142.04, comprised of the following parcels, lots and properties ("120 Giles Enhanced Employment Area"):

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TAX LOTS 11 AND 15,

TOGETHER WITH ALL OF TAX LOT 2A AND PARTS OF TAX LOTS 2B1 AND 3 LYING NORTH AND WEST OF RAILROAD RIGHT-OF-WAY,

TOGETHER WITH NORTHWESTERLY PART OF TAX LOT 1A1B AND NORTHWESTERLY PART OF TAX LOTS 2B1 AND 3 LYING SOUTH AND EAST OF RAILROAD RIGHT-OF-WAY,

ALL LOCATED IN SECTION 17, TOWNSHIP 14 NORTH, RANGE 12 EAST, OF THE 6TH P.M., SARPY COUNTY, NEBRASKA;

LOTS 5 AND 6, SOUTHPORT EAST;

LOT 1, SOUTHPORT EAST REPLAT 1;

LOT 11A, SOUTHPORT EAST REPLAT FIVE;

THE ENTIRE WIDTH OF ANY PART OF EASTPORT PARKWAY IMMEDIATELY ADJACENT TO ANY PARCEL OR LOT DESCRIBED ABOVE, OR PART THEREOF, TO ITS INTERSECTION WITH GILES ROAD;

THE ENTIRE WIDTH OF ANY OTHER PUBLIC RIGHT OF WAY, OR OF ANY RAILROAD RIGHT OF WAY OR OF ANY CREEK (BANK TO BANK), IMMEDIATELY ADJACENT TO ANY SUCH PARCEL OR LOT OR PART THEREOF;

ALL RIGHT OF WAY COMPRISING THE INTERSECTION OF 120TH STREET AND GILES ROAD AND ANY OTHER IMMEDIATELY ADJACENT PROPERTY NEEDED FOR CONSTRUCTION OF TRAFFIC SIGNAL OR OTHER PUBLIC STREET IMPROVEMENTS THEREIN; AND

ANY OTHER PROPERTY, OR PARTS THEREOF, IMMEDIATELY ADJACENT TO ANY RIGHT OF WAY DESCRIBED ABOVE AS FROM TIME TO TIME NEEDED TO CONSTRUCT PUBLIC STREET OR OTHER PUBLIC IMPROVEMENTS.

III. CLASSIFICATION OF BUSINESSES, USERS OF SPACE, OR KINDS OF TRANSACTIONS.

The following classifications of businesses, users of space, or kinds of transactions are hereby found, determined, and declared to be reasonable, and such classifications are hereby established, for purposes of imposing and levying general business occupation taxes upon businesses and users of space within the 120 Giles Enhanced Employment Area pursuant to this Ordinance:

Hotel or motel business, which means engaging in a business that offers or provides temporary lodging, including without limitation any extended stay lodging, within the 120 Giles Enhanced Employment Area for fees, charges, or other consideration ("Hotel or Motel Business")

Retail sales business, which means engaging in a business of retail sales, including without limitation food, beverage and merchandise retail sales, operated on the site of the Nebraska Multisport Complex or in other parts of the 120 Giles Enhanced Employment Area ("Retail Sales Business"), and excluding temporary lodging room rental of any Hotel or Motel Business.

IV. GENERAL BUSINESS OCCUPATION TAX LEVY

A. On and after the Effective Date (as defined below), the City, in addition to any other applicable occupation, sales or other taxes imposed by the City from time to time, hereby imposes and levies the following general business occupation taxes ("120 Giles GBOT") on all persons engaged in a Hotel or Motel Business or Retail Sales Business within the 120 Giles Enhanced Employment Area, the amount of which 120 Giles GBOT shall be determined as follows:

Classification of Business

120 Giles GBOT Rate

Hotel or Motel Business

120 Giles GBOT shall be calculated as 2% of total gross receipts derived by the taxpayer from room rentals of temporary lodging of any Hotel or Motel Business within

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the 120 Giles Enhanced Employment Area ("Hotel or Motel Business Gross Receipts"), and

Retail Sales Business

120 Giles GBOT shall be calculated as 5% of total gross receipts derived by the taxpayer from retail sales within the 120 Giles Enhanced Employment Area, as "retail sales" is defined in the Nebraska Revenue Act of 1967, as amended from time to time, including without limitation food, beverage and merchandise retail sales ("Retail Sales Business Gross Receipts").

Provided, however, the 120 Giles GBOT shall be subject to the following conditions:

1. The 120 Giles GBOT shall not be imposed on any business or other person primarily using a lot or parcel for general office uses, and gross receipts for purposes of calculating the 120 Giles GBOT shall exclude gross receipts derived from (i) general office use, (ii) leases for and rental proceeds from general office use, and (iii) retail sales at buildings used primarily for general office use.
2. A Retail Sales Business conducted in conjunction with a Hotel or Motel Business shall be subject to the 120 Giles GBOT on Retail Sales Businesses, calculated based on gross receipts from retail sales other than temporary room rentals, in addition to being subject to the 120 Giles GBOT on Hotel or Motel Businesses based on gross receipts from temporary room rentals.
3. Gross receipts for purposes of determining the amount of any occupation taxes of any Hotel or Motel Business or Retail Sales Business pursuant to this Ordinance shall mean the total amount of receipts, revenues, consideration, donations, contributions, or monetary charges of any nature received from room rentals or retail sales, as the case may be, without any deduction on account of expenses, taxes, or other costs.
4. The 120 Giles GBOT will be levied and payable at such times and subject to applicable provisions, terms or conditions of Nebraska Statutes or the Municipal Code or other ordinances, resolutions, regulations, policies, guidance, agreements, documents, or instruments of the City, as adopted, enacted, implemented, or amended from time to time, including without limitation applicable provisions of Municipal Code Sections 113.55 through 113.62.

Taxes imposed by this Ordinance are taxes on taxpayers for the privilege of engaging in Hotel or Motel Business or Retail Sales Business occupations within the 120 Giles Enhanced Employment Area of the City, and will be binding on all owners and operators engaged in a Hotel or Motel Business or Retail Sales Business within the 120 Giles Enhanced Employment Area and their respective successors and assigns.

B. **Use of Proceeds.** Proceeds of the 120 Giles GBOT shall be deposited in a separate fund established by the City and used to pay all or part of the costs and expenses of any authorized work within the 120 Giles Enhanced Employment Area, or debt service or other costs and expenses of bonds the proceeds of which are expended or allocated for authorized work, as specified or approved from time to time by the City Council, Mayor, City Administrator, or any designee of the City Council, Mayor or City Administrator, pursuant to Neb. Rev. Stat. Section 18-2142.04 and Code Sections 113.55 through 113.62.

C. **Effective Date; Term.** The 120 Giles GBOT enacted by this Ordinance shall commence with respect to a particular Hotel or Motel Business or Retail Sales Business effective as of the earlier of:

1. January 1, 2026, or
2. The effective date of any bonds that have been issued pursuant to Neb. Rev. Stat. Section 18-2142.04 and are secured by the 120 Giles GBOT or state the 120 Giles GBOT as an available source for payment.

("Effective Date") at 4:00 a.m., and continue and remain in effect until revoked by the City, unless otherwise specified by any applicable ordinance or resolution of the City. Notwithstanding anything in this Ordinance to the contrary, the 120

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Giles GBOT shall remain in effect, and shall not terminate, so long as the City has bonds outstanding that have been issued pursuant to Neb. Rev. Stat. Section 18-2142.04 and are secured by the 120 Giles GBOT or state the 120 Giles GBOT as an available source for payment.

V. REPEAL. Ordinance No. 1462 as originally enacted and all ordinances in conflict with this Ordinance are hereby repealed.

VI. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the constitutionality or 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.

VII. PUBLICATION AND EFFECTIVE DATE OF ORDINANCE. This Ordinance shall be published in a legal newspaper in or of general circulation within the City or in book, pamphlet, electronic, or such other form in accordance with applicable law, as determined by the City Clerk to be in the best interests of the City and its residents, and shall be in full force and effect from and after its passage, approval and publication in accordance with applicable law.

PASSED AND APPROVED THIS 16TH DAY OF MAY 2023.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:



Pamela A. Buethe, MMC
City Clerk