

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
OCTOBER 18, 2022 AGENDA

Subject:	Type:	Submitted By:
AMEND LA VISTA MUNICIPAL CODE SECTION 113.55 – 113.63 REPEAL ORDINANCE 1386	RESOLUTION ◆ ORDINANCES (2) RECEIVE/FILE	PAM BUETHE CITY CLERK

SYNOPSIS

Ordinances have been prepared to repeal Ordinance 1386 and adopt an ordinance to correct sections as codified in the La Vista Municipal Code book.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

When Ordinance 1386 was adopted, the municipal code numbers used were already assigned to another section of the code book. When codification was done, the next available numbers in the Municipal Code Book were used.

With the repeal of ordinance 1386 and the adoption of a new ordinance the numbering will be correct on the ordinance and will match the section codified in our Municipal Code Book.

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA REPEALING ORDINANCE NO. 1386 AND PROVISIONS OF THE LA VISTA MUNICIPAL CODE GOVERNING ENHANCED EMPLOYMENT AREAS AND GENERAL BUSINESS OCCUPATION TAXES, USE OF PROCEEDS, AND ADMINISTRATIVE PROVISIONS, AS CODIFIED IN CODE SECTIONS 113.55 THROUGH 113.63; AND PROVIDING FOR SEVERABILITY, PUBLICATION AND AN EFFECTIVE DATE.

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

Section 1. The Mayor and City Council in 2020 by Ordinance No. 1386 ("Initial GBOT Ordinance") authorized enhanced employment areas and general business occupation taxes within substandard and blighted areas and provided for use of proceeds and administrative provisions, as codified in La Vista Municipal Code sections 113.55 through 113.63.

Section 2. The Mayor and City Council of the City of La Vista desire to authorize enhanced employment areas and general business occupation taxes within or outside of substandard and blighted areas. A separate Ordinance is presented at this Council meeting for this purpose ("New GBOT Ordinance"). The New GBOT Ordinance will replace and supersede the Initial GBOT Ordinance, as codified in sections 113.55 through 113.63. Accordingly, the Mayor and City Council desire to repeal the Initial GBOT Ordinance contemporaneously with enactment of the New GBOT Ordinance.

Section 3. Ordinance No. 1386 and applicable provisions of the La Vista Municipal Code, as codified in Sections 113.55 through 113.63, are hereby repealed in their entirety, effective contemporaneously with the New GBOT Ordinance. Provided, however, any Ordinance or other action of the Mayor and City Council before the effective date of this Ordinance approving, enacting or otherwise in connection with an enhanced employment area or general business occupation tax within a substandard and blighted area shall remain in effect pursuant to applicable provisions of Nebraska Statutes and the New GBOT Ordinance.

Section 4. 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 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.

Section 5. Publication. This Ordinance shall be published in a legal newspaper in or of general circulation within the City or in pamphlet form in accordance with applicable law, as determined by the City Clerk to be in the best interests of the City and its residents.

Section 6. Ordinance Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication in accordance with applicable law.

PASSED AND APPROVED THIS ____ DAY OF _____, 20____.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, MMC
City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA ENACTING PROVISIONS OF THE LA VISTA MUNICIPAL CODE GOVERNING ENHANCED EMPLOYMENT AREAS AND GENERAL BUSINESS OCCUPATION TAXES WITHIN OR OUTSIDE SUBSTANDARD AND BLIGHTED COMMUNITY REDEVELOPMENT AREAS, USE OF PROCEEDS, AND ADMINISTRATIVE PROVISIONS, TO BE CODIFIED IN CODE SECTIONS 113.55 THROUGH 113.62;; REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR 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 SECTIONS 113.55 THROUGH 113.62 OF THE LA VISTA MUNICIPAL. Sections 113.55 through 113.62 of the La Vista Municipal Code are hereby adopted and approved as follows:

“ENHANCED EMPLOYMENT AREAS AND GENERAL BUSINESS OCCUPATION TAXES

113.55 Definitions. For purposes of sections 113.55 through 113.62, the following definitions shall apply, unless the Act or context clearly indicates or requires a different meaning.

- a. **Act** means Neb. Rev. Stat. §§18-2101 through 18-2155. References to the Act or any other Nebraska Statutes shall be deemed to mean the Act or such other statutes as amended from time to time.
- b. **Agency** means the La Vista Community Development Agency.
- c. **Authorized work** means permissible purposes for proceeds of general business occupation taxes within enhanced employment areas that are not blighted and substandard community redevelopment areas, pursuant to Neb. Rev. Stat. Section 18-2142.04.
- d. **Bond:**
 - i. In connection with levies of general business occupation taxes within enhanced employment areas that are within community redevelopment areas, has the meaning provided in the Act, including without limitation Neb. Rev. Stat. Section 18-2103; and
 - ii. In connection with levies of general business occupation taxes within enhanced employment areas that are outside community redevelopment areas, has the meaning provided in Neb. Rev. Stat. Section 18-2142.04.
- e. **City** means 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.
- f. **City Clerk** means the City of La Vista City Clerk.

- g. **Community redevelopment area** has the meaning provided in Neb. Rev. Stat. Section 18-2103.
- h. **Director** means the City of La Vista Finance Director or her or his designee.
- i. **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 the immediately preceding sentence, renting or using a facility, place or premises for a taxable activity as a promoter, operator, producer, one-time event, part-time, full-time, or otherwise, shall be considered to be engaged in a business and taxable activity.
- j. **Enhanced employment area** means an area not exceeding six hundred acres:
 - i. Within a community redevelopment area, as described in Neb. Rev. Stat. § 18-2103(11)(a), or
 - ii. Not within a community redevelopment area, as described in Neb. Rev. Stat. § 18-2103(11)(b).

An enhanced employment area shall be designated by resolution, ordinance, or other action of the Agency or City, as appropriate under the circumstances.

- k. **General business occupation tax** means a tax imposed pursuant to the authority granted by sections 113.55 through 113.62 or the Act, including without limitation Neb. Rev. Stat. Section 18-2142.02 and 18-2142.04.
- l. **Person** means any natural person, individual, firm, partnership, association, joint-stock company, association, organization, limited liability company, corporation, or entity of any kind or character engaging in any activity that is subject to a general business occupation tax imposed pursuant to sections 113.55 through 113.62 or the Act, including Neb. Rev. Stat. Section 18-2142.02 or 18-2142.04.
- m. **Redevelopment project** has the meaning provided in Neb. Rev. Stat. Section 18-2103.
- n. **Taxpayer** means any person engaged in a business or activity required to pay a tax imposed in accordance with sections 113.55 through 113.62 or the Act, including Neb. Rev. Stat. Section 18-2142.02 or 18-2142.04.

113.56 General Business Occupation Taxes Authorized.

- a. Neb. Rev. Stat. §18-2142.02 and §18-2142.04 authorize the City to levy general business occupation taxes within enhanced employment areas that are within or outside blighted and substandard community redevelopment areas.
- b. The City Council determines that it is necessary, desirable, advisable, and in the best interests of the City to periodically impose and levy general business occupation taxes within designated enhanced employment areas pursuant to

Neb. Rev. Stat. §18-2142.02 or §18-2142.04, as from time to time approved by the City Council.

- c. The City hereby authorizes the levy of general business occupation taxes from time to time as follows:
 - i. **Within Community Redevelopment Areas.** Pursuant to applicable Nebraska Statutes including without limitation Neb. Rev. Stat. §§ 18-2103 and 18-2142.02, upon the businesses and users of space within designated enhanced employment areas that are within blighted and substandard community redevelopment areas for the purpose of paying all or any part of the costs and expenses of any redevelopment projects within such enhanced employment areas, or debt service or other costs or expenses in connection with any bonds for such purposes as described in subsection 113.55(d)(i) and stating such occupation taxes as an available source for payment; or
 - ii. **Outside Community Redevelopment Areas.** Pursuant to applicable Nebraska Statutes including without limitation Neb. Rev. Stat. § 18-2142.04, upon the businesses and users of space within designated enhanced employment areas that are not within blighted and substandard community redevelopment areas for the purpose of paying all or any part of the costs and expenses of authorized work within such enhanced employment areas, or debt service or other costs or expenses in connection with any bonds described in subsection 113.55(d)(ii) the proceeds of which are expended for or allocated to authorized work.

Assessment, levy, collection, and use of proceeds of taxes pursuant to sections 113.55 through 113.62 shall be specified by ordinance.

- d. 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.
- e. General business occupation taxes pursuant to sections 113.55 through 113.62 and applicable Nebraska Statutes, including without limitation Section 18-2142.02 or 18-2142.04, 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 or enhanced employment area, or otherwise by ordinance, taxes shall be payable each calendar month.
- f. Any taxes imposed pursuant to sections 113.55 through 113.62 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, however, any such itemization, billing, invoicing, or other actions to pass the cost of the tax through to customers or purchasers shall not be required and shall not alter responsibility for the tax. Persons engaged in a

taxable activity shall remain solely liable for a tax imposed pursuant to sections 113.55 through 113.62, notwithstanding whether or not passing the cost of the tax through to customers or purchasers is attempted or accomplished.

- g. Taxes imposed pursuant to sections 113.55 through 113.62 shall be subject to any applicable State or local laws, rules or regulations as adopted or amended from time to time.

113.57 Taxes Cumulative

- a. Except as expressly stated to the contrary in any applicable contract, ordinance, resolution, or statute, any tax pursuant to sections 113.55 through 113.62 shall be in addition to all other fees, taxes, excises, costs, expenses, or other charges levied or imposed pursuant to any contract, any other provisions of this code or ordinances of the City from time to time, or any other fees, taxes, excises, costs, expenses, or other charges imposed by any federal, state or local government. Payment of the tax imposed pursuant to sections 113.55 through 113.62 shall not relieve a person paying the same from payment of any other tax or amount now or hereafter due or owing. To specify and not limit the foregoing, occupation taxes imposed pursuant to this article or otherwise by the City shall be cumulative except where otherwise expressly provided to the contrary.
- b. 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 sections 113.55 through 113.62.

113.58 Term

Any general business occupation taxes imposed pursuant to sections 113.55 through 113.62 shall commence and remain in effect for such period as specified by the City Council; provided, however, a general business occupation tax at a minimum shall remain in effect so long as the City has bonds outstanding which state such occupation tax as an available source for payment.

113.59 Use of Revenues

Proceeds of any tax imposed pursuant to sections 113.55 through 113.62 shall be used for the purpose of paying all or any part of the costs and expenses within the designated enhanced employment area as authorized by the City in accordance with applicable requirements of sections 113.55 through 113.62 or Nebraska Statutes, including without limitation Neb. Rev. Stat. Section 18-2142.02 or 18-2142.04.

113.60 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 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 City Administrator's designee from time to time, and shall be verified and sworn to by an authorized officer of 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 after the month 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

113.61 Administration; Remedies

Except as otherwise provided in sections 113.55 through 113.62 or any subsequent ordinance, general business occupation taxes shall be administered in accordance with, and any remedies shall be as provided in, Code sections 113.25 through 113.31.

113.62 Construction

In accordance with the Act, powers conferred by sections 113.55 through 113.62, levy of any general business occupation taxes pursuant to authority granted by sections 113.55 through 113.62, 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 sections 113.55 through 113.62 and grants of power, authority, rights or discretion herein, and any related documents, instruments or actions of the City, Agency, or other proper authority arising out of such sections, shall be liberally construed, and all incidental powers necessary to carry into effect said provisions are hereby expressly granted and conferred. Sections 113.55 through 113.62 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 any provisions of sections 113.55 through 113.62 are inconsistent with any other provisions of the Municipal Code or ordinances, the provisions of sections 113.55 through 113.62 shall control with respect to general business occupation taxes described in such sections. Terms used in sections 113.55 through 113.62 shall have the meanings as provided in the Act, except as otherwise expressly provided in such sections.

II. REPEAL OF CONFLICTING PROVISIONS. Ordinance Number 1386 and previously enacted provisions of the La Vista Municipal Code governing enhanced employment areas,

general business occupation taxes, use of proceeds, and administrative provisions codified in Code sections 113.55 through 113.63 are being repealed by separate Ordinance contemporaneously with this Ordinance. Provided, however, any Ordinance or other action of the Mayor and City Council before the effective date of this Ordinance that approved or enacted an enhanced employment area or general business occupation tax within a substandard and blighted area pursuant to Code sections 113.55 through 113.63 and Ordinance No. 1386 is ratified and shall remain in effect pursuant to provisions of the Act and this Ordinance, as applicable under the circumstances.

III. 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 validity of the remaining portions of this Ordinance. The Mayor and City Council of the City of La Vista hereby declare that they would have passed and approved 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 a legal newspaper in or of general circulation within the City or in pamphlet 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 _____ DAY OF _____, _____.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, MMC
City Clerk