

ORDINANCE NO. 14-739

AN ORDINANCE (A) DESIGNATING AN ENHANCED EMPLOYMENT AREA WITHIN THE CORPORATE LIMITS OF THE CITY OF FRIEND, NEBRASKA, AND (B) PROVIDING FOR THE LEVY OF AN OCCUPATION TAX ON CONVENIENCE/VISITOR RELATED BUSINESSES WITHIN SUCH ENHANCED EMPLOYMENT AREA; 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; AND RELATED MATTERS

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

Section 1. Findings and Determinations. The Mayor and Council of the City of Friend, Nebraska (the "City") hereby find and determine as follows:

- (a) Pursuant to Chapter 18, Article 21, Reissue Revised Statutes of Nebraska, as amended (the "Act"), the City has prepared and adopted the Redevelopment Plan under and pursuant to which the City shall undertake from time to time to redevelop and rehabilitate the Redevelopment Area (hereinafter defined).
- (b) The current population of the City is 1,027 and the City hereby determines that within the area shown on Exhibit "A" (attached hereto and incorporated herein by reference and referred to as the "Enhanced Employment Area"), new investment within such area will result in (1) at least two new employees and (2) new investment of not less than \$125,000.
- (c) The Enhanced Employment Area includes the U.S. Highway 6 corridor, which is an important part of the City's development and includes business deriving a large share of their sales from traffic on U.S. Highway 6.
- (d) Pursuant to Section 18-2142.02, Reissue Revised Statutes of Nebraska, as amended, the City is authorized to levy and collect an occupation tax upon the specified 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 improvements in the Enhanced Employment Area, including, without limitation, improvements to the appearance, function, usefulness, and integration of the Highway 6 corridor into the greater community of the City and promoting activities, events and programs that increase traffic and business growth in the U.S. Highway 6 corridor.
- (e) 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(d).

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 Qualifying Business.
- (b) **“Qualifying Business”** means any business 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 purposes other than for resale, sublease or sub-rent in connection with convenience and/or visitor services, including without limitation; (a) box store, convenience store, quick stop or truck stop with gas and food; (b) hotel, motel, inn, bed and breakfast facilities offering rooms on a daily or weekly basis; (c) camp grounds; (d) fast food, with pay and food pickup at the counter, with walk up or drive up window and chain restaurants; (e) fireworks stands; (f) second-hand stores, (g) car washes; and (h) billboards. Determination of the classification of businesses will be made by the board of the City of Friend, Nebraska Community Redevelopment Authority after an opportunity is provided to the person to present relevant information and conduct discussion with such board.
- (c) **“Taxpayer”** shall mean any Person engaged in the business of operating a Qualifying Business as herein defined who is required to pay the tax herein imposed.

Section 3. Designation of Enhanced Employment Area. The City hereby designates the area shown in **Exhibit “B”** (attached hereto and incorporated herein by reference) as an “enhanced employment area: as defined in Section 18-2103(22), Reissue Revised States of Nebraska, as amended.

Section 4. Tax Imposed; Collection of Tax.

- (a) On or after April 1, 2015 and in each calendar month thereafter there is hereby imposed a Qualifying Business occupational tax upon each and every Person operating a Qualifying Business with the Enhanced Employment Area for any period of time during a calendar month. The amount of such tax shall be one percent (1.00%) of all transactions which the State of Nebraska is authorized to impose a tax as allowed by the Nebraska Local Option Revenue Act for each calendar month derived from the Qualifying Business subject to this tax. Such tax shall be imposed on transactions which the State of Nebraska is authorized to impose a tax as allowed by the Nebraska Local Option Revenue Act resulting from the sales of products or services within the limits of the Enhanced Employment Area which are subject to the sales and use tax imposed by the State of Nebraska.
- (b) The Person engaged in operating a Qualifying Business may itemize the tax levied on a bill, receipt, or other invoice to the purchase, but each Person engaged in such business shall remain liable for the tax imposed by this Ordinance.

Section 5. Return. Each and every Person engaged in the operation of a Qualifying Business within the Enhanced Employment Area for the calendar month beginning April 1, 2015, and for each and every month thereafter, shall prepare and file, on or before the 25th day of the following month thereafter on a form prescribed and furnished by the City Clerk, a return for such month, and at the same time pay to the City the tax herein imposed. The return shall be verified and sworn to by the officer in charge of the business. The return shall be considered filed on time if mailed in an envelope properly addressed to the City Clerk, postage prepaid and postmarked before midnight of the 25th of the appropriate month.

Section 6. Tax Cumulative.

- (a) The levy of the tax under this Ordinance is in addition to all other fees, taxes, excises and licenses levied and imposed under any contract or any other ordinances of the City, in addition to any fee, tax, excise or license imposed by the state.
- (b) Payment of the tax imposed by this Ordinance 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 Ordinance, including those imposed for any business or occupation he or she may carry on, unless so provided therein. The occupational taxes imposed by this Ordinance shall be cumulative except where otherwise specifically provided.

Section 7. Use of Revenue. The one percent (1.00%) occupation tax imposed by this Ordinance, less any administrative expenses, shall be used to fund any expenditures that the City is lawfully authorized to make in connection with the Enhanced Employment Area as permitted by the Act.

Section 8. Failure to File Return; Delinquency; Assessment by City Clerk.

- (a) If any person neglects or refuses to file a return or make payment of the taxes as required by this Ordinance, the City Clerk shall make an estimate, based upon such information as may be reasonably available, of the amount of taxes due for the period or periods for which the Taxpayer is delinquent, and upon the basis of such estimated amount, compute and assess in addition thereto a penalty equal to one percent (1.00%) thereof, together with interest on such delinquent taxes, at the rate of ten percent (10.00%) per month, or fraction thereof from the date when due. Any such interest due may be compounded quarterly.
- (b) The City Clerk shall give the delinquent Taxpayer written notice of such estimated taxes, penalty, and interest, which notice must be served personally or by certified mail.
- (c) Such estimate shall thereupon become as assessment, and such assessment shall be final and due and payable from the Taxpayer to the City Clerk ten (10) days from the date of service of the notice or the date of mailing by certified mail; however, within such ten (10) day period the delinquent Taxpayer may petition the City Clerk for a revision or modification of such assessment and shall, within such ten-day period, furnish the City Clerk the facts and correct figures showing the correct amount of such taxes.
- (d) Such petition shall be in writing, and the facts and figures submitted shall be submitted in writing and shall be given under oath of the Taxpayer.
- (e) The City Clerk may then modify such assessment in accordance with the facts which he or she deems correct. Such adjusted assessment shall be made in writing, and notice thereof shall be mailed to the Taxpayer within ten (10) days; and all such decisions shall become final upon the expiration of thirty (30) days from the date of service, unless proceedings are commenced within that time for appeal in the District Court.

Section 9. Administration; Miscellaneous Provisions.

- (a) The administration of the provisions of this Ordinance are hereby vested in the City Clerk, or his or her designee, who shall prescribe forms in conformity with this Ordinance for the making of returns, for the ascertainment, assessment and collection of the tax imposed hereunder, and for the proper administration and enforcement hereof.
- (b) All notices required to be given to the Taxpayer under the provisions of this Ordinance shall be in writing. Notices shall be mailed by registered or certified mail, postage prepaid, return receipt requested, to the Taxpayer at his or her last known address.

- (c) It shall be the duty of every Taxpayer to keep and preserve suitable records and other books or accounts as may be necessary to determine the amount of tax for which he/she is liable hereunder.
- (1) Records of the transactions which the State of Nebraska is authorized to impose a tax as allowed by the Nebraska Local Option Revenue Act by which this tax is measured shall be kept separate and apart from the records of other sales or receipts in order to facilitate the examination of books and records as necessary for the collection of this tax.
 - (2) It shall be the duty of every such Taxpayer to keep and preserve for a period of four (4) years all such books, invoices and other records, which shall be open for examination at any time by the City Clerk or his or her duly designated persons. If such Person keeps or maintains his books, invoices, accounts or other records, or any thereof, outside of the state, upon demand of the City Clerk he/she shall make the same available at a suitable place within the City, to be designated by the City Clerk, for examination, inspection and audit by the City Clerk or his or her duly authorized persons. The Taxpayer shall reimburse the City for the reasonable costs of the examination, inspection and audit if the City Clerk determines that the Taxpayer paid ninety percent or less of the tax owing for the period of the examination.
 - (3) The City Clerk, in his or her discretion, may make, permit or cause to be made the examination, inspection or audit of books, invoices, accounts or other records so kept or maintained by such Person outside of the state at the place where same are kept or maintained or at any place outside the state where the same may be made available, provided such Person shall have entered into a binding agreement with the City to reimburse it for all costs and expenses incurred by it in order to have such examination, inspection or audit made in such place.
- (d) For the purpose of ascertaining the correctness of a return, or for the purpose of determining the amount of tax due from any Person, the City Clerk or his or her duly authorized persons, may conduct investigations concerning any matters covered by this Ordinance; and may examine any relevant books, papers, records or memoranda of any such Person.

Section 10. Recovery of Unpaid Tax by Action at Law.

- (a) The City Clerk 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 the taxes, or any portion thereof, or any penalty or interest thereon when due, the City may recover at law the amount of such taxes, penalties and interest in any court of Sarpy County, Nebraska or of the County wherein the Taxpayer resides or has its principal place of business having jurisdiction of the amounts sought to be collected.
- (c) The return of the Taxpayer or the assessment made by the City Clerk, 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 11. Suspension or Revocation of Licenses for Failure to Pay Tax; Hearing. If the Mayor or the Mayor'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 license, permit or other approval issued by the City to the Person may be temporarily suspended. No suspension or revocation hereunder 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 12. Sunset Provision. The occupation tax imposed by this Ordinance shall terminate and collection of the tax shall cease upon payment in full of all indebtedness issued by the City pursuant to the provisions of Section 18-2124, Reissue Revised Statutes of Nebraska, for which such occupation tax receipts have been pledged.

Section 13. 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 14. Severability. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid, the invalidity of the remainder hereof shall not be affected thereby.

Section 15. Headings of Sections Not Controlling. The headings of sections of this Ordinance are set forth herein for convenience of reference only and shall not affect the construction or interpretation of this Ordinance or any section hereof.

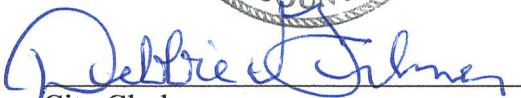
Section 16. Effective Date. This Ordinance shall take effect upon its passage and publication as provided by law.

DATED: December 1, 2014

CITY OF FRIEND, NEBRASKA

ATTEST




City Clerk


Mayor

LEGAL DESCRIPTION OF THE CITY OF FRIEND ENHANCED EMPLOYMENT AREA

An area that begins at the southwest corner of the Southwest Quarter (SW1/4) of Section Fourteen (14) Township Eight (8) North, Range One (1) East of the 6th. P.M., Saline County, Nebraska;

Thence north to the northern line of the Burlington Northern Railroad right of way line;

Thence easterly along the right of way to the intersection of the west line of Cedar Street;

Thence north along the extended west line of Cedar Street to the extended north line of "C" Street (also the north Corporate Limit Line);

Thence continuing generally east along the north line of "C" Street, and including all real property between the north Corporate Limit Line and "C" Street, to its intersection with the east line of the J.K. Friend Addition (also known as the east Corporate Limit Line);

Thence south along said Corporate Limit Line to its intersection with the north line of the Burlington Northern Railroad corridor (which is also the north Corporate Limit Line);

Thence east along said north line to its intersection with the west line of Page Street;

Thence south along said west line to its intersection with the south line of 2nd Street;

Thence west along said south line to its intersection with the east line of Race Street;

Thence south along said east to its intersection with the south line of 3rd Street;

Thence west along said south line to its intersection with the west line of Spring Street;

Thence south along said west line to its intersection with the south line of 8th Street;

Thence west along said south line of 8th Street to its intersection with the west line of Cherry Street;

Then south along said west line of Cherry Street to its intersection with the south line of 9th Street;

Thence east along said south line of 9th Street to its intersection with the east line of Cherry Street;

Thence south along said east line to its intersection with the south side of 11th street;

Thence west along said south side to its intersection with the west line of Maple Street;

Thence north along said west line to its intersection with the south line of 6th Street;

Thence west along said south line to its intersection with the west line of State Street;

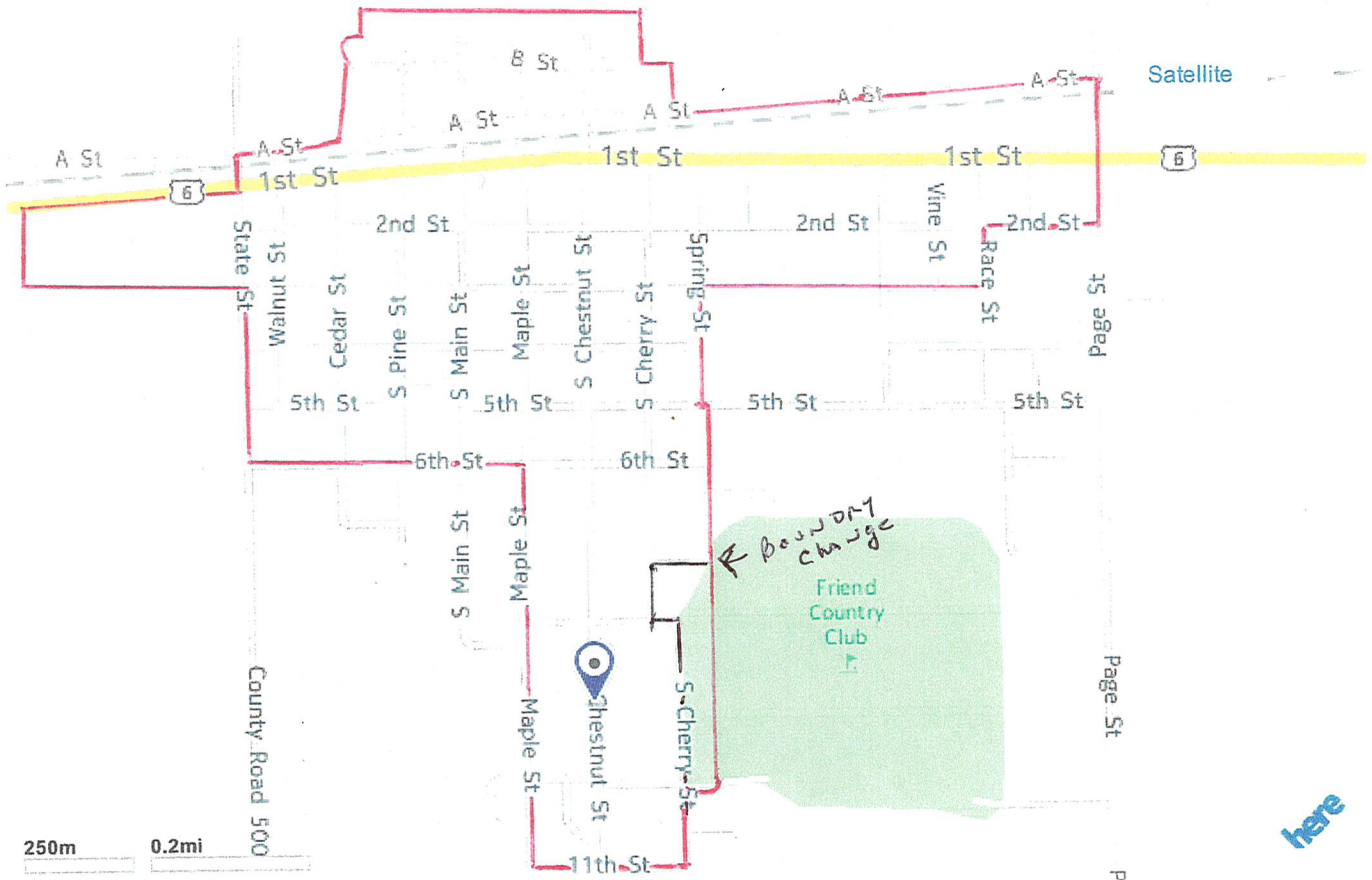
Thence north along said west line to its intersection with the south line of 3rd Street;

Thence west along said south line to its intersection with the west line of the Street located on the western boundary of McLean's Addition;

Thence north along the west line of McLean's Addition to the intersection with the south line of the Highway 6 right of way;

Thence eastwardly to the east line of the Northeast Quarter (NE ¼) of Section Twenty-Two (22), Township Eight (8) North, Range One (1) East of the 6th. P.M., Saline County, Nebraska;

Thence north along the east line of said Section 22 to the point of beginning, also known as the Southwest Quarter corner of Section Fourteen (14) Township Eight (8) North, Range One (1) East of the 6th. P.M., Saline County, Nebraska.



EEA Enhanced Employment Area = aprox. 389 Acres