

CITY OF SKIATOOK

ORDINANCE NO. 2015-14

AN ORDINANCE LEVYING AND ASSESSING A SALES TAX OF FIVE TENTHS OF ONE PERCENT (.50%) IN ADDITION TO PRESENT SALES TAXES UPON THE GROSS RECEIPTS OR PROCEEDS ON CERTAIN SALES AS HEREIN DEFINED; PROVIDING FOR THE PURPOSE OF THE FIVE TENTHS OF ONE PERCENT (.50%) SALES TAX; DEFINING TERMS; PRESCRIBING PROCEDURES, REMEDIES, LIEN AND FIXING PENALTIES; FIXING EFFECTIVE DATE; ESTABLISHING TERM; AND MAKING PROVISIONS SEVERABLE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SKIATOOK, OKLAHOMA:

SECTION 1. CITATION AND CODIFICATION. This Ordinance shall be known and may be cited as "City of Skiatook Special Sales Tax Ordinance of 2015."

SECTION 2. DEFINITIONS. The definitions of words, terms and phrases contained in the Oklahoma Sales Tax Code, Title 68, Oklahoma Statutes, Section 1352, as amended, are hereby adopted by reference and made a part of this Ordinance.

SECTION 3. TAX COLLECTOR DEFINED. The term "Tax Collector" as used herein means the Department of the City government or the official agency of the State duly designated according to law or contract authorized by law to administer the collection of the tax herein levied.

SECTION 4. CLASSIFICATION OF TAXPAYERS. For the purpose of this Ordinance the classification of taxpayers hereunder shall be as prescribed by state law for purposes of the Oklahoma Sales Tax Code.

SECTION 5. SUBSISTING STATE PERMITS. All valid and subsisting permits to do business issued by the Oklahoma Tax Commission pursuant to the Oklahoma Sales Tax Code are, for the purpose of this Ordinance hereby ratified, confirmed and adopted in lieu of any requirement for an additional City permit for the same purpose.

SECTION 6. EFFECTIVE DATE. This Ordinance shall become and be effective on and after July 1, 2016, subject to approval of a majority of the registered voters of the City of Skiatook, Oklahoma, voting on same in the manner prescribed by Title 11, Oklahoma Statutes, Section 16-101 *et seq.*, as amended.

SECTION 7. PURPOSE OF REVENUES. It is hereby declared to be the purpose of this Ordinance to provide revenues to be placed in a separate, special fund to be used for the purpose of constructing, improving, repairing and maintaining

streets, roads, alleys, bridges and sidewalks within the City of Skiatook, Oklahoma, and/or to be applied or pledged toward the payment of principal and interest on any indebtedness, including refunding indebtedness, incurred by or on behalf of the City for such purposes, including payment of the costs of issuance of such indebtedness.

“Constructing, improving, repairing and maintaining” as used above, means the reasonable and necessary expenses of the City paid, incurred or accrued in constructing, improving, repairing and maintaining streets, roads, alleys, bridges and sidewalks intended for public use, including, but not limited to, the following:

1. cost of material and supplies to be utilized in connection with constructing, improving, repairing and maintaining streets, roads, alleys, bridges and sidewalks;
2. cost of labor utilized either by the City of Skiatook or pursuant to contract in constructing, improving, repairing and maintaining roads, alleys, bridges, and sidewalks;
3. any and all construction costs related to constructing, improving, repairing and maintaining streets, roads, alleys, bridges and sidewalks;
4. cost of the purchase, lease or rental of machinery, equipment, and fixtures;
5. any other construction costs related to constructing, improving, repairing and maintaining streets, roads, alleys, bridges and sidewalks;
6. cost of acquisition of real property, easements and rights of way necessary to constructing, improving, repairing and maintaining streets, roads, alleys, bridges and sidewalks, including any legal expenses, costs and fees incurred in such acquisitions;
7. cost of the construction, reconstruction, relocation and repair of water systems and facilities, sanitary and storm sewer systems and facilities, drainage improvements, electrical system improvements, including the acquisition of rights-of-way and other real property necessary for such construction in connection with constructing, improving, repairing and maintaining streets, roads, alleys, bridges and sidewalks;
8. cost of contractual services and professional, consulting, testing, architectural, engineering or construction management services, including legal services and services of financial consultants if related in any way to constructing, improving, repairing and maintaining streets, roads, alleys, bridges and sidewalks;

SECTION 8. TERM OF TAX. The tax herein levied shall be and remain in effect from July 1, 2016, and continuing thereafter until June 30, 2031, unless earlier repealed by the registered, qualified voters of the City of Skiatook prior to the termination date.

SECTION 9. TAX RATE - SALES SUBJECT TO TAX. There is hereby levied in addition to all other taxes in effect in the City of Skiatook, Oklahoma, an excise tax of five tenths of one percent (.50%) upon the gross proceeds or gross receipts derived from all sales or services in the City of Skiatook, Oklahoma, upon which a consumers sales tax is levied by the State of Oklahoma under the Oklahoma Sales Tax Code.

SECTION 10. EXEMPTIONS. There is hereby specifically exempted from the tax levied by this Ordinance all items that are exempt from the State sales tax under the Oklahoma Sales Tax Code.

SECTION 11. OTHER EXEMPT TRANSFERS. There is also hereby specifically exempted from the tax herein levied the transfer of tangible personal property exempted from the Oklahoma Sales Tax Code.

SECTION 12. TAX DUE WHEN - RETURNS - RECORDS. The tax levied hereunder shall be due and payable at the time and in the manner and form prescribed for payment of the State sales tax under the Oklahoma Sales Tax Code.

SECTION 13. PAYMENT OF TAX - BRACKETS. (a) The tax herein levied shall be paid to the Tax Collector at the time in form and manner provided for payment of State sales tax under the Oklahoma Sales Tax Code. (b) The bracket system for the collection of the .50% City sales tax provided for herein by the Tax Collector shall be as the same as hereafter adopted by the agreement of the City of Skiatook, Oklahoma and the Tax Collector, in the collection of both the .50% City sales tax provided for herein and the State sales tax.

SECTION 14. TAX CONSTITUTES DEBT. Such taxes, penalty and interest due hereunder shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors, and may be collected by suit as any other debt.

SECTION 15. VENDOR'S DUTY TO COLLECT TAX. (a) The tax levied hereunder shall be paid by the consumer or user to the vendor, and it shall be the duty of each and every vendor in this City to collect from the consumer or user, the full amount of the tax levied by this Ordinance, or any amount equal as nearly as possible or practicable to the average equivalent thereof.

(b) Vendors shall add the tax imposed hereunder, or the average equivalent

thereof, to the sales price or charge, and when added such tax shall constitute a part of such price or charges, shall be debt from the consumer or user to vendor until paid, and shall be recoverable at law in the same manner as other debts.

(c) A vendor as defined herein, who willfully or intentionally fails, neglects or refuses to collect the full amount of the tax levied by this Ordinance, or willfully or intentionally fails, neglects or refuses to comply with the provisions hereof or remits or rebates to a consumer or user, either directly or indirectly, and by whatsoever means, all or any part of the tax herein levied, or makes in any form of advertising, verbally or otherwise, any statement which infers that he is absorbing the tax, or paying the tax for the consumer or user by an adjustment of prices or at a price including the tax, or in any manner whatsoever, shall be deemed guilty of an offense, and upon conviction thereof shall be fined not more than One Hundred Dollars (\$100.00), plus costs, and upon conviction for a second or other subsequent offense shall be fined not more than Five Hundred Dollars (\$500.00), plus costs, or incarcerated for not more than sixty (60) days, or both. Provided sales by vending machines may be made at a stated price which includes state and any municipal sales tax.

(d) Any sum or sums collected or required to be collected hereunder shall be deemed to be held in trust for the City of Skiatook, Oklahoma, and, as trustee, the collecting vendor shall have a fiduciary duty to the City of Skiatook, Oklahoma in regards to such sums and shall be subject to the trust laws of this state. Any vendor who willfully or intentionally fails to remit the tax, after the tax levied by this article was collected from the consumer or user, and appropriates the tax held in trust to his own use, or to the use of any person not entitled thereto, without authority of law, shall be guilty of embezzlement.

SECTION 16. RETURNS AND REMITTANCES - DISCOUNTS. Returns and remittances of the tax herein levied and collected shall be made to the Tax Collector at the time and in the manner, form and amount as prescribed for returns and remittances required by the Oklahoma Sales Tax Code; and remittances of tax collected hereunder shall be subject to the same discount as may be allowed by the Oklahoma Sales Tax Code for collection of State sales tax.

SECTION 17. INTEREST AND PENALTIES - DELINQUENCY. The provisions of Title 68, Oklahoma Statutes, Section 217, as amended, and of Title 68, Oklahoma Statutes, Sections 1350 *et seq.*, as amended, are hereby adopted by reference and made a part of this Ordinance, and interest and penalties at the rates and in amounts as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this Ordinance. Provided, that the failure or refusal of any taxpayer to make and transmit the reports and remittances of tax in the time and manner required by this Ordinance shall cause such tax to be delinquent. In addition, if such delinquency continues for a period of five (5) days the

taxpayer shall forfeit his claim to any discount allowed under this Ordinance.

SECTION 18. WAIVER OF INTEREST AND PENALTIES. The interest or penalty or any portion thereof accruing by reason of a taxpayer's failure to pay the City sales tax herein levied may be waived or remitted in the same manner as provided for such waiver or remittance as applied in administration of the State sales tax provided in Title 68, Oklahoma Statutes, Section 220, as amended; and to accomplish the purposes of this section the applicable provisions of such Section 220 are hereby adopted by reference and made a part of this Ordinance.

SECTION 19. ERRONEOUS PAYMENTS - CLAIM FOR REFUND. Refund of erroneous payment of the City sales tax herein levied may be made to any taxpayer making such erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the State sales tax as set forth in Title 68, Oklahoma Statutes, Section 227, as amended, and to accomplish the purposes of this Section, the applicable provisions of such Section 227 are hereby adopted by reference and made a part of this Ordinance.

SECTION 20. FRAUDULENT RETURNS. In addition to all civil penalties provided by this Ordinance, the willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose for avoiding or escaping payment for any tax or portion thereof rightfully due under this Ordinance shall be an offense, and upon conviction thereof the offending taxpayer shall be subject to such fines and/or incarceration as provided in Title 68, Oklahoma Statutes, Section 241, as amended.

SECTION 21. RECORDS CONFIDENTIAL. The confidential and privileged nature of the records and files concerning the administration of the City sales tax is legislatively recognized and declared, and to protect the same the provisions of Title 68, Oklahoma Statutes, Section 205, as amended, of the Oklahoma Sales Tax Code, and each subsection thereof is hereby adopted by reference and made fully effective and applicable to administration of the City sales tax as if here set forth in full.

SECTION 22. AMENDMENTS. The people of the City of Skiatook, Oklahoma, by their approval of this Ordinance at the election hereinabove provided, hereby authorize the City Council by ordinances duly enacted to make such administrative and technical changes or additions in the method and manner of administration and enforcing this Ordinance as may be necessary or proper for efficiency and fairness except that neither the rate of the tax herein provided, nor the term, nor the purpose of the tax herein provided, shall be changed without approval of the qualified electors of the City as provided by law.

SECTION 23. PROVISIONS CUMULATIVE. The provisions hereof shall be

cumulative, and in addition to any and all other taxing provisions of City Ordinances.

SECTION 24. PROVISIONS SEVERABLE. The provisions hereof are hereby declared to be severable, and if any section, subsection, paragraph, sentence or clause of this Ordinance is for any reason held invalid or inoperative by any Court of competent jurisdiction such decision shall not affect any other section, subsection, paragraph, sentence or clause hereof.

PASSED AND APPROVED in regular session this 8th day of December, 2015.

CITY OF SKIATOOK, OKLAHOMA

By: _____
David Sutherland, Mayor

ATTEST:

Shirley Lett, City Clerk

APPROVED AS TO FORM AND LEGALITY:

Jeff M. Stephens, City Attorney