

ORDINANCE #1057

ORDINANCE ENACTING A CITY SALES AND USE TAX

Whereas the City Council of the City of Wishek, North Dakota, wishes to enact a Sales & Use tax, be it ordained as follows:

City Sales and Use Tax

Section 1	Definition
Section 2	Sales Tax Imposed
Section 3	Use Tax Imposed
Section 4	Exemptions
Section 5	Maximum Tax Imposed
Section 6	Tax Returns and Information Reports
Section 7	Tax Payments; Collections; Penalties
Section 8	Tax Administrator
Section 9	Corporate Officer Liability
Section 10	Deduction to Reimburse Retailer for Administrative Expenses
Section 11	Dedication of Tax Proceeds
Section 12	Penalties
Section 13	Tax Commencement
Section 14	Termination

Section 1. Definitions

All terms defined in Chapter 57-39.2 and Chapter 57-40.2 of the North Dakota Century Code (NDCC), including all future amendments, are adopted by reference and incorporated herein.

Section 2. Sales Tax Imposed

Except as otherwise provided in this Chapter, a tax of one percent (1%) is imposed upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as provided in this section, within the corporate limits of the City of Wishek, North Dakota, of the following to consumers or users:

1. Tangible personal property, consisting of goods, wares or merchandise, including mobile homes.
2. The furnishing or service of communication services or steam other than steam used for processing agriculture products.
3. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity, and including the furnishing of bingo cards and playing of any

machine for amusement or entertainment in response to the use of a coin. The tax imposed by this section applies only to eighty (80%) of the gross receipts collected from coin-operated amusement devices.

4. The leasing or renting of a hotel or motel or tourist court accommodations.
5. The leasing or renting of tangible personal property, the transfer of title to which has not be subjected to a retail sales or use tax under this chapter.
6. Sales of alcoholic beverages and tobacco products as defined in Section 57-39.2-.03.2 NDCC.
7. Furnishing and installment or attachment to real property in this state by a contractor or a subcontractor who is retailer of drapes, hardware for hanging drapes, or carpet for floor covering.
8. Sales through vending machines to the extent taxable by the State under Section 57-39.2-03.3 NDCC.

Section 3. Use Tax Imposed

Except as otherwise provided in this chapter, an excise tax of one percent (1%) is imposed on the storage, use, or consumption in the city of Wishek on:

1. The purchase price of tangible personal property, including mobile homes, purchased at retail for storage, use, or consumption within the city.
2. The fair market value of tangible personal property, including mobile homes, which was not originally purchased for storage, use or consumption in the city, at the time which it is brought into this city.
3. Alcoholic beverages and tobacco products which are stored, used or consumed in this city, as provided in Section 57-40.2-03.2 NDCC.
4. The purchase price of tangible personal property used by a contractor or subcontractor to fulfill a contract as defined in Section 57-40.2-03.3 NDCC. This tax applies only to bids submitted on or after the effective date of this chapter.

Section 4. Exemptions

There are specifically exempted from the provisions of this chapter and from the computation of the amount of tax imposed by it the following:

1. All sales, storage, use, or consumption of tangible personal property which are exempt from imposition and computation of the sales or use tax of the State of North Dakota are specifically exempt from the provision of this chapter.

Section 5. Maximum Tax Imposed

No single transaction by the taxpayer from any one customer involving one or more items is subject to a tax in excess of \$25.00.

Section 6. Tax Returns and Information Reports

The tax administrator is authorized to create, publish, and to require the use of, such tax return forms and information reports as are necessary to administer the tax provided for herein. To the extent feasible, these forms shall incorporate or be integrated with the returns and reports required by the State Tax Commissioner under Sections 57-39.2 and 57-40.2 NDCC.

Section 7. Tax Payments; Collections; Penalties

The tax imposed herein shall be paid and collected as nearly as practical in accordance with the payment, collection and penalty provisions of Chapters 57-39.2 and 57-40.2 NDCC.

Section 8. Tax Administrator

The tax administrator shall be the City Auditor. However, the City Auditor is authorized to contract with the State Tax Commissioner to enforce this chapter, subject to confirmation of the contract by the City Commission. If the contract is made and confirmed, the tax administrator shall be the State Tax Commissioner as long as the contract remains in force.

Section 9. Corporate Officer Liability

Officers of any corporation required to remit taxes imposed by this chapter are personally liable for the failure of the corporation to file required returns or remit required payments. The dissolution of a corporation shall not discharge an officer's liability for a prior failure of the corporation to make a return or remit the tax due. The tax, penalty, and interest due may be assessed and collected pursuant to the provisions adopted by this chapter.

Section. 10. Deduction to Reimburse Retailer for Administrative Expenses

1. A retailer who pays the tax due hereunder within the time limitations prescribed may deduct and retain three percent (3%) of the tax due.
2. The aggregate of deductions allowed by this section may not exceed Two Hundred Fifty and No/100 Dollars (\$250.00) per quarterly period for each business location required to remit sales tax hereunder.
3. The deduction allowed retailers by this section is to reimburse retailers for expenses incurred in keeping records, preparing and filing returns, remitting the tax, and supplying information to the Auditor and Commissioner upon request.

Section 11. Dedication of Tax Proceeds

All revenues raised and collected under this article, less administrative expenses, shall be placed in a separate sales and use tax fund which shall be dedicated exclusively as follows:

1. Capital and Park Improvements - 25%.
2. Economic Development - 75%.

Section 12. Penalties

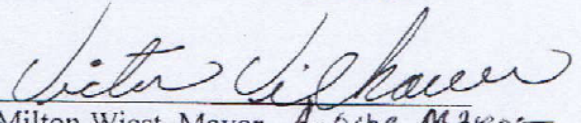
1. If any person fails to file a return or corrected return or to pay any tax within the time required by this chapter or, if upon audit, is found to owe additional tax, such person shall be subject to a penalty as established in Section 57-39.2-18(1) of the North Dakota Century Code. Such penalty may be imposed by the Municipal Court of the City of Wishek or any other Court of competent jurisdiction.
2. The certificate of the Auditor, or where applicable, the North Dakota State Tax Commissioner to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this chapter, shall be prima facie evidence thereof.
3. Any person failing to comply with any of the provisions of this chapter or failing to remit within the time herein provided the tax due or any use, sale or purchase of tangible personal property subject to said sales and use tax shall, in addition to penalties imposed hereinabove, be subject to a fine, upon conviction in the Municipal Court, not to exceed Five Hundred Dollars (\$500.00).

Section 13. Tax Commencement

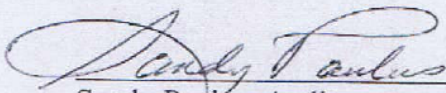
The taxes imposed herein shall apply to sales and uses from and after the 1st day of April, 1997.

Section 14. Termination

1. The sales and use tax imposed by this article shall terminate after December 31, 2001, unless prior to that date a majority of the qualified electors of the City of Wishek vote to extend the sales and use tax indefinitely or to a time certain.
2. This ordinance shall be in full force and effect from and after its final passage, approval and publication.

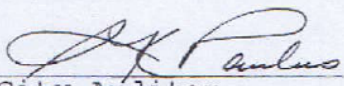

~~Milton Wiest, Mayor~~ *Acting Mayor*

ATTEST:


Sandy Paulus, Auditor

STATE OF NORTH DAKOTA
CITY OF WISHEK, NORTH DAKOTA

The foregoing instrument was filed for record in my office on the 18th day of February, 1997, at 11:30 o'clock A.M., and was recorded in the Ordinance Book on page 45 thereof.


City Auditor

State of North Dakota)
) ss)
County of McIntosh)

Excerpts from Ordinance

#1057

Jan. 29 1997

Thomas E. Lovik, Publisher

Subscribed and sworn to before me this 30th day of January, 19 97.

(SEAL)

John Walsh
Notary Public in and for
McIntosh County, North Dakota

My Commission expires 7/31, ~~19~~ 2002.

Straight Matter 36 lines @ .47 = 16.92

Open Display _____ col. in. @ \$5 = _____

Straight Matter _____ lines @ .47x _____ insertions = _____

Open Display _____ col. in. @ \$5 x _____ insertions =

TOTAL PUBLICATION FEE 16.92

NOTARY FEE 0

#1057, passed by the City of Wishek, on Jan. 20 1997, showing the title and penalty clauses only of said ordinance.

Section 12. Penalties

1. If any person fails to file a return or corrected return or to pay any tax within the time required by this chapter or, if upon audit, is found to owe additional tax, such person shall be subject to a penalty as established in Section 57-39.2-18(1) of the North Dakota Century Code. Such penalty may be imposed by Municipal Court of the City of Wishek or any other Court of Competent Jurisdiction.

2. The Certificate of the Auditor, or where applicable, the North Dakota State Tax Commissioner to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this chapter, shall be prima facie evidence thereof.

3. Any person failing to comply with any of the provisions of this chapter or failing to remit within the time herein provided the tax due or any use, sale or purchase of tangible personal property subject to said sales and use tax shall, in addition to the penalties imposed herein above, be subject to a fine, upon conviction in the Municipal Court, not to exceed Five Hundred Dollars (\$500.00).

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CITY OF WISHEK, NORTH DAKOTA

The foregoing instrument was filed for record in my office on the 18th day of February, 1997, at 11:30 o'clock, A.M., and was recorded in the Ordinance Book on page 49 thereof.

AK Paulus
City Auditor

**A RESOLUTION RECOMMENDING AN AMENDMENT TO THE CITY OF WISHEK
HOME RULE CHARTER PERTAINING TO THE SALES AND USE TAX**

Whereas, this Council feels it desirable to amend the section of the Home Rule Charter of the City of Wishek pertaining to the sales and use tax; now therefore,

BE IT RESOLVED, that this Council recommends to the electors of the City of Wishek, that Article 3, Section p of the home rule charter be amended to read as follows:

"P". To impose a one per cent (1%) sales, use and gross receipts tax effective January 1, 2007, subject to the following provisions:

1. The proceeds of any sales, use and gross receipts tax shall be dedicated to:

Capital and Park Improvements	25%
Economic Development	75%

2. Sales, use and gross receipts taxes shall be only those which the State of North Dakota imposes pursuant to Chapters 57-39.2, 57-39.5, 57-39.6 and 57-40.2 of the North Dakota Century Code, and must conform in all respects with regard to the taxable or exempt status of items under those chapters, and may not be imposed at multiple rates with the exception of sales of electricity, piped natural or artificial gas, or other heating fuel delivered by the seller or the retail or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.


3. Such taxes may not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax purposes, except for the farm machinery gross receipts tax.

4. Said taxes must be subject to collection by the state tax commissioner under an agreement under section 57-01-02.1 of the "North Dakota Century Code."

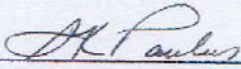
BE IT FURTHER RESOLVED, that the City Auditor shall cause a copy of this resolution to be forthwith published in one edition of the Wishek Star.

BE IT FURTHER RESOLVED, that the question of whether this proposed amendment should be approved shall be submitted to the electors of the City of Wishek at a special election to be held no earlier than 60 days after the date of the adoption of this resolution.

Approved this 3rd day of July, 2006.


Victor Vilhauer, Mayor

Attest:


S. K. Paulus, City Auditor

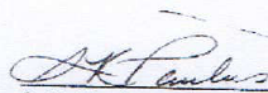
The foregoing amendment to the Home Rule Charter of the City of Wishek was recommended to the electors of Wishek on July 3, 2006.

It was published in the Wishek Star on July 12, 2006 and approved by a majority vote of the electors at an election held September 5, 2006.

CERTIFICATE

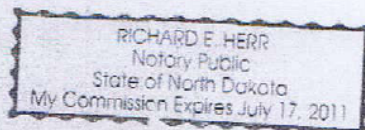
I, Sandy Paulus, City Auditor of the City of Wishek, McIntosh County, North Dakota, do hereby certify that the attached copy of an Amendment to the Home Rule Charter for the City of Wishek, McIntosh County, North Dakota is a true and correct copy of the Amendment that was filed in my office on July 3, 2006, and that was enacted in accordance with Chapter 40-05.1 of the North Dakota Century Code.

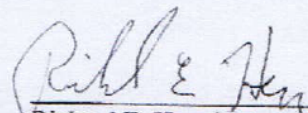
I further certify that the Amendment was submitted to the electors at a special election held September 5, 2006, more than 60 days after its recommendation by the City Council, and was approved by a majority of the votes cast thereon.


S. K. Paulus - City Auditor

STATE OF NORTH DAKOTA)
)ss.
COUNTY OF MCINTOSH)

On this ^{14th} 24th day of September, 2006, before me personally appeared S.K. Paulus, the City Auditor of the City of Wishek, North Dakota, known to be the person who is described in and who executed the within and foregoing Certificate and acknowledged to me that she executed the same.




Richard E. Herr, Notary Public
McIntosh County, North Dakota
My Commission Expires: 7/17/2011

RESOLUTION DECLARING RESULT OF ELECTION

WHEREAS, the Council called a special election for November 5, 1996 to vote on the question of whether the sales tax imposed by ordinance number 1057 should be extended to December 31, 2006; and,

WHEREAS, Notice of said election was duly published in the Wishek Star on October 17, 24 and 31, 2001; and,

WHEREAS, the question voted on said election was:

"Shall the sales and use tax imposed by Ordinance Number 1057 of the City of Wishek be extended to December 31, 2006?"

AND, WHEREAS this Council has canvassed the election returns for said election and found that the vote on said question was as follows:

Yes 187

No 42

NOW THEREFORE, BE IT RESOLVED that it is declared that the voters by a majority of the votes cast at said election have approved extending said sales and use tax until December 31, 2006.

BE IT FURTHER RESOLVED THAT the the sales and use tax imposed by Ordinance 1057 shall continue to be imposed until December 31, 2006, at which time it shall terminate unless again extended by a majority of the electors of the City of Wishek voting at an election called for the the purpose of again voting on said question.

Approved this 8th day of November 2001.

Attest:

Mike Paulsen
City Auditor

Donna L. Hochhalter
Mayor

ORDINANCE NO. 1082

AN ORDINANCE TO ESTABLISH AND REGULATE A CITY SALES, USE, AND GROSS RECEIPTS TAX UNDER THE HOME RULE CHARTER OF THE CITY OF WISHEK

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WISHEK, MCINTOSH
COUNTY, NORTH DAKOTA:**

SALES, USE, AND GROSS RECEIPTS TAX

Section 1. Definitions.

All terms defined in chapters 40-05.1, 57-39.2, 57-39.4, 57-39.5, 57-39.6 and 57-40.2 of the North Dakota Century Code (NDCC), including any future amendments, are adopted by reference. All references to the NDCC include amendments adopted by the North Dakota Legislative Assembly.

Section 2. Collection and Administration.

Where not in conflict with the provisions of this Ordinance, the provisions of NDCC chapters 40-05.1, 57-39.2, 57-39.4, 57-39.5, 57-39.6 and 57-40.2, and all administrative rules adopted by the Tax Commissioner, pertaining to the collection and administration of the retail sales, use, and gross receipts tax, including provisions for liability, refund, penalty, interest or credit, govern the administration by the North Dakota Office of State Tax Commissioner (hereinafter "Tax Commissioner") of the taxes imposed by this Ordinance.

Section 3. Sales Tax Imposed.

Subject to the provisions of NDCC & 40-05.1-06, and except as otherwise provided by this Ordinance, or the sales and use tax laws of the State of North Dakota, a tax of one (1) percent is imposed upon the gross receipts of retailers from all sales at retail, including the leasing or renting of tangible personal property, within the corporate limits of the city of Wishek, North Dakota.

Section 4. Use Tax Imposed.

Subject to the provisions of NDCC & 40-05.1-06, and except as otherwise provided in this Ordinance, or the sales and use tax laws of the State of North Dakota, an excise tax is imposed upon the storage, use, or consumption within the corporate limits of the City of Wishek, North Dakota of tangible personal property purchased at retail for storage, use, or consumption in this city, at the rate of one (1) percent of the purchase price of the property. An excise tax is imposed on the storage, use, or consumption within the corporate limits of the City of Wishek, North Dakota of tangible personal property not originally purchased for storage, use, or consumption in the city at the rate of one (1) percent of the fair market value of the property at the time it was brought into this city.

Section 5. Gross Receipts of Alcoholic Beverages.

Subject to the provisions of NDCC & 40-05.1-06, and except as otherwise provided in this Ordinance, a gross receipts tax of one (1) percent is imposed upon all gross receipts from the sale of alcoholic beverages within the city. A person who receives alcoholic beverages for storage, use, or consumption in this state is subject to tax on storage, use, or consumption of those alcoholic beverages at the rate of one (1) percent.

Section 6. Exemptions.

This ordinance does not provide for any exemptions from imposition and computation of the city tax other than those provided for by state law.

Section 7. Contract with Tax Commissioner.

The Wishek City Auditor is hereby authorized to contract with the Tax Commissioner for administration and collection of taxes imposed by this Ordinance. The City Auditor has all powers granted to the Tax commissioner and in the absence of a valid contract with the Tax Commissioner or failure of the Tax Commissioner to perform the delegated duties, shall perform these duties in place of the Tax Commissioner.

Section 8. Dedication of Tax Proceeds.

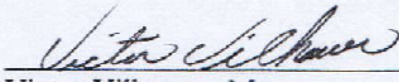
All revenues raised and collected under this ordinance shall be placed in a separate account which shall be dedicated exclusively as follows:

- | | | |
|----|----------------------|-------|
| 1. | Capital Improvements | 12.5% |
| 2. | Park Improvements | 12.5% |
| 3. | Economic Development | 75 % |

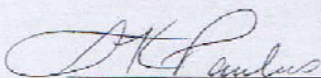
Section 9. Effective Date.

This Ordinance shall take effect after its passage, approval, and publication, but not prior to January 1, 2007.

Approved this 14th day of September, 2006.


Victor Vilhauer - Mayor

Attest:


S. K. Paulus - City Auditor

STATE OF NORTH DAKOTA)

COUNTY OF MCINTOSH)

The foregoing instrument was filed for record in my office on the 15th day of
September, 2006 at 9:30 a.m, and was recorded in the Ordinance Book on page 1664
thereof.



S.K. Paulus, City Auditor

ORDINANCE NUMBER 1086

AN ORDINANCE AMENDING ORDINANCE NUMBER 1082, THE SALES TAX ORDINANCE OF THE CITY OF WISHEK

Be it ordained by the City Council of the City of Wishek, North Dakota, as follows:

1. A new section numbered 11 is hereby added to said ordinance, and shall read as follows:

"Section 11: Deduction to Reimburse Retailer for Administrative Expenses.

1. A retailer who pays the tax due hereunder within the time limitations prescribed may deduct and retain three percent (3%) of the tax due.
 2. The aggregate of deductions allowed by this section may not exceed Two Hundred Fifty and No/100 Dollars (\$250.00) per quarterly period for each business location required to remit sales tax hereunder.
 3. The deduction allowed retailers by this section is to reimburse retailers for expenses incurred in keeping records, preparing and filing returns, remitting the tax, and supplying information to the Auditor and Commissioner upon request.
2. This ordinance shall take effect after its passage, but not prior to October 1, 2007.

Approved this 12th day of June, 2007.

Victor Vilhauer
Victor Vilhauer - Mayor

Attest:

S. K. Paulus

S. K. Paulus - City Auditor

INDIVIDUAL ACKNOWLEDGMENT

State Of North Dakota

County of McIntosh

} ss

On this day before me, the undersigned Notary Public, personally appeared Victor Vilhauer to me known to be the individual described in and who executed the document and acknowledged that signed the document as free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this 13th day of June 2007.

By Cheryl Busche

My commission expires: 5-7-08

CHERYL BOSCHEE
Notary Public
State of North Dakota
My Commission Expires May 7, 2008

STATE OF NORTH DAKOTA CITY OF WISHEK, NORTH DAKOTA

The foregoing instrument was filed for record in my office on the 12th day of June, 2007, at 8:00 A.M. and was recorded in the Ordinance Book on page 173 thereof.

S. K. Paulus
City Auditor

ORDINANCE NO. 1095

AN ORDINANCE TO ESTABLISH AND REGULATE A CITY SALES, USE, AND GROSS RECEIPTS TAX UNDER THE HOME RULE CHARTER OF THE CITY OF WISHEK

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WISHEK, MCINTOSH COUNTY NORTH DAKOTA THAT THE HOME RULE CHARTER AND ORDINANCE NO. 1082 BE AMENDED AS FOLLOWS:

SALES, USE, AND GROSS RECEIPTS TAX

Section 1. Definitions.

All terms defined in chapters 40-05.1, 57-39.2, 57-39.4, 57-39.5, 57-39.6 and 57-40.2 of the North Dakota Century Code (NDCC), including any future amendments, are adopted by reference. All references to the NDCC include amendments adopted by the North Dakota Legislative Assembly.

Section 2. Collections and Administration.

Where not in conflict with the provisions of this Ordinance, the provisions of NDCC chapters 40-05.1, 57-39.2, 57-39.4, 57-39.5, 57-39.6 and 57-40.2, and all administrative rules adopted by the Tax Commissioner, pertaining to the collection and administration of the retail sales, use, and gross receipts tax, including provisions for liability, refund, penalty, interest or credit, govern the administration by the North Dakota Office of State Tax Commissioner (hereinafter "Tax Commissioner") of the taxes imposed by this Ordinance.

Section 3. Sales Tax Imposed.

Subject to the provisions of NDCC & 40-05.1-06, and except as otherwise provided by this Ordinance, or the sales and use tax laws of the State of North Dakota, a tax of one and one half percent (1½ %) percent is imposed upon the gross receipts of retailers from all sales at retail, including the leasing or renting of tangible personal property, within the corporate limits of the city of Wishek, North Dakota.

Section 4. Use Tax Imposed.

Subject to the provisions of NDCC & 40-05.1-06, and except as otherwise provided in this Ordinance, or the sales and use tax laws of the State of North Dakota, an excise tax is imposed upon the storage, use, or consumption within the corporate limits of the City of Wishek, North Dakota of tangible personal property purchased at retail for storage, use, or consumption in this city, at the rate of one and one half (1½ %) percent of the purchase price of the property. An excise tax is imposed on the storage, use, or consumption within the corporate limits of the City of Wishek, North Dakota of tangible personal property not originally purchased for storage, use, or consumption in the city at the rate of one and one half (1½ %) percent of the fair market value of the property at the time it was brought into this city.

Section 5. Gross Receipts of Alcoholic Beverages.

Subject to the provisions of NDCC & 40-05.1-06, and except as otherwise provided in this Ordinance, a gross receipts tax of one and one half (1½ %) percent is imposed upon all gross receipts from the sale of alcoholic beverages within the city. A person who receives alcoholic beverages for storage, use, or consumption in this state is subject to tax on storage, use, or consumption of those alcoholic beverages at the rate of one and one half (1½) percent.

Section 6. Exemptions.

This ordinance does not provide for any exemptions from imposition and computation of the city tax other than those provided for by state law.

Section 7. Contract with Tax Commissioner.

The Wishek City Auditor is hereby authorized to contract with the Tax Commissioner for administration and collection of taxes imposed by this Ordinance. The City Auditor has all powers granted to the Tax commissioner and in the absence of a valid contract with the Tax Commissioner or failure of the Tax Commissioner to perform the delegated duties, shall perform these duties in place of the Tax Commissioner.

Section 8. Dedication of Tax Proceeds.

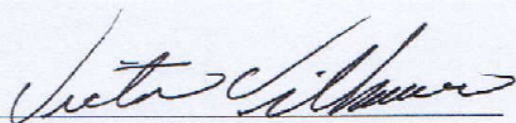
All revenues raised and collected under this ordinance shall be placed in a separate account which shall be dedicated exclusively as follows:

- | | |
|-------------------------|----------|
| 1. Capital Improvements | 8.334 % |
| 2. Park Improvements | 41.666 % |
| 3. Economic Development | 50.000 % |

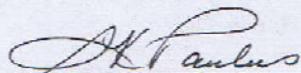
Section 9. Effective Date.

This Ordinance shall take effect after its passage, approval, and publication, but not prior to January 1, 2013.

Approved this 4th day of ^{Sept.}~~August~~, 2012.


Victor Vilhauer - Mayor

ATTEST:


S. K. Paulus - City Auditor

