

THE CITY COUNCIL OF THE CITY OF BROKEN ARROW, STATE OF OKLAHOMA, MET IN A SPECIAL MEETING IN THE CITY COUNCIL CHAMBERS AT CITY HALL, 220 SOUTH FIRST STREET IN SAID CITY ON THE 24TH DAY OF AUGUST, 2015, AT 5:00 P.M.

PRESENT:

ABSENT:

Written notice of the schedule of regular meetings of the Council of the City for calendar year 2015 having been given in writing to the Clerk of the City prior to December 15, 2014, and public notice and an agenda of this Special Meeting having been posted in prominent public view at City Hall, 220 South First Street, Broken Arrow, Oklahoma, forty-eight (48) hours prior to this meeting, excluding Saturdays, Sundays and legal holidays, all in compliance with the Oklahoma Open Meeting Act.

(OTHER PROCEEDINGS)

Thereupon, _____ introduced an Ordinance which was read in full by the Clerk and considered by sections, and upon motion by _____, seconded by _____, said Ordinance was adopted by the following vote:

AYE:

NAY:

Said Ordinance was thereupon signed by the Mayor, attested by the Clerk, sealed with the seal of said municipality, and is as follows:

ORDINANCE NO. 3361

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BROKEN ARROW, OKLAHOMA, LEVYING AND ASSESSING A SALES TAX OF TWENTY-FIVE HUNDREDTHS OF ONE PERCENT (.25%) IN ADDITION TO PRESENT CITY AND STATE SALES TAX UPON THE GROSS PROCEEDS OR GROSS RECEIPTS DERIVED FROM ALL SALES TO ANY PERSON TAXABLE UNDER THE SALES TAX LAW OF OKLAHOMA INCLUDING, BUT NOT LIMITED TO, CERTAIN ENUMERATED SALES LISTED THEREIN; PROVIDING FOR THE PURPOSE OF THE TWENTY-FIVE HUNDREDTHS OF ONE PERCENT (.25%) TAX TO BE USED FOR THE PURPOSES OF IMPROVING, CONSTRUCTING AND MAINTAINING CITY STREETS, SIDEWALKS, AND RELATED STORMWATER IMPROVEMENTS, INCLUDING THE ACQUISITION AND REPLACEMENT OF MACHINERY, EQUIPMENT AND MATERIALS, AND INCLUDING THE INSTALLATION OF TRAFFIC CONTROL DEVICES AND SIGNALIZATION; TO BECOME EFFECTIVE ON THE 1ST DAY OF JANUARY, 2017, PROVIDING EXEMPTIONS FROM THE SALES TAX LAW OF OKLAHOMA INCLUDING, BUT NOT LIMITED TO, CERTAIN ENUMERATED EXEMPTIONS LISTED THEREIN; PROVIDING FOR THE ADMINISTRATION AND COLLECTION OF TAX; REQUIRING THE FILING OF RETURNS; PROVIDING FOR INTEREST AND PENALTIES FOR FAILURE TO PAY TAX WHEN DUE; PROVIDING FOR TAXPAYER TO KEEP RECORDS; REQUIRING VENDORS TO COLLECT TAX FROM PURCHASER AT THE TIME OF SALE; ESTABLISHING LIENS; AUTHORIZING THE CITY COUNCIL TO MAKE ADMINISTRATIVE AND TECHNICAL CHANGES AND ADDITIONS EXCEPT TAX RATE; MAKING THE TAX CUMULATIVE; AMENDING SECTION 22-14 OF CHAPTER 22 OF THE CODE OF ORDINANCES TO INCLUDE THE SALES TAX LEVIED HEREIN; REQUIRING APPROVAL OF ORDINANCE BY MAJORITY OF REGISTERED VOTERS VOTING AT AN ELECTION HELD FOR SUCH PURPOSES AS PROVIDED BY LAW; AND PROVIDING FOR THE SEVERABILITY THEREOF.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
BROKEN ARROW, OKLAHOMA:**

- Section 1.** Citation and codification. This Ordinance shall be known and cited as the “City of Broken Arrow Streets and Stormwater Sales Tax Ordinance of 2015,” and the same shall be codified and incorporated into the Code of Ordinances of the City of Broken Arrow, Oklahoma (the “City”), under Section 22-14.
- Section 2.** Definitions. The definitions of words, terms and phrases contained in the Oklahoma Sales Tax Code, Title 68, Oklahoma Statutes 2011, 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 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.** Effective date and term. This Ordinance shall become and be effective on and after the 1st day of January, 2017, subject to approval of a majority of the registered voters of the City of Broken Arrow voting on the same in the manner prescribed by law. Upon approval by the voters as required above, this Ordinance shall remain in effect until repealed.
- Section 6.** Tax rate – sales subject to tax. There is hereby levied, in addition to all other taxes in effect in the City of Broken Arrow, an excise tax of twenty-five hundredths of one percent (.25%) levied upon the gross proceeds or gross receipts derived from all sales or services in the City of Broken Arrow, under the Oklahoma Sales Tax Code.
- Section 7.** Purposes of revenues. The proceeds of the sales tax levied and assessed by this Ordinance shall be dedicated to a Streets and Stormwater Sales Tax Fund and used, for the purpose of improving, constructing and maintaining City streets, sidewalks, and related stormwater appurtenances, including the acquisition and replacement of machinery, equipment and materials, and including the installation of traffic control devices and signalization.
- Section 8.** Expenditures. Revenues collected hereunder shall be accounted for in a dedicated Streets and Stormwater Sales Tax Fund and expended for projects or expenditures as may be identified and budgeted by Council for the purposes set forth in Section 7. It is the intention of the Council that the proceeds of the sales tax levied and

assessed by this Ordinance be utilized for existing City streets and necessary appurtenances, but not to construct new streets.

Section 9. 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 10. 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 11. 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 12. Payment of Tax. 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.

Section 13. 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 14. 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 the 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 charge, shall be a 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 Twenty Dollars (\$20.00) including costs.

Section 15. 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 16. Interest and Penalties – Delinquency. The provisions of Title 68, Oklahoma Statutes 2011, Section 217, as amended, and of Title 68, Oklahoma Statutes 2011, 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 17. Waiver of interest and penalties. The interest or penalty or any portion thereof accruing by reason of a taxpayer's failure to pay the 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 2011, Section 220, as amended; and to accomplish the purpose of this section, the applicable provisions of such Section 220 are hereby adopted by reference and made a part of this Ordinance.

Section 18. 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 2011, 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 19. 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 of avoiding or escaping payment of 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 2011, Section 241, as amended.

Section 20. 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 provisions of Title 68, Oklahoma Statutes 2011, 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 21. 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 22. Payment of tax. The tax herein levied shall be paid at the time and in the manner and in the form prescribed for the payment of state sales tax under the Oklahoma Sales Tax Code.

Section 23. Amendment. The citizens of the City of Broken Arrow, Oklahoma, by their approval of this Ordinance at the election hereinabove provided for, hereby authorize the City by Ordinance duly enacted to make any 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 the purpose, rate and limitation of time for collection of the tax herein provided shall not be changed without the approval of the qualified electors of the City as provided by law.

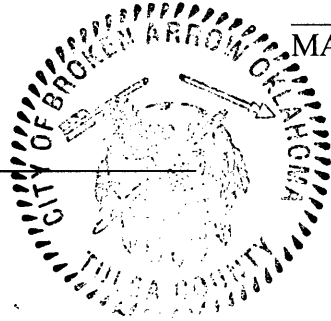
Section 24. Provisions cumulative. Provisions hereof shall be cumulative and in addition to any and all other taxing provisions of City Ordinances.

Section 25. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

PASSED AND APPROVED this 24th day of August, 2015.

ATTEST:

Mary Bruce
(Seal) CITY CLERK



C. W. [Signature]
MAYOR

APPROVED:

Bea Ann Wilkening
CITY ATTORNEY