

ORDINANCE NO. 2031

FILED  
SEP 19 2016

AN ORDINANCE AMENDING ORDINANCE NO. 2024, ~~ESTABLISHING THE~~ NOKOMIS BUSINESS DISTRICT; APPROVING A BUSINESS DISTRICT PLAN; AUTHORIZING THE IMPOSITION AND COLLECTION OF A SALES TAX WITHIN SUCH BUSINESS DISTRICT; AND APPROVING CERTAIN ACTIONS IN CONNECTION WITH THE ESTABLISHMENT OF SUCH BUSINESS DISTRICT.

**WHEREAS**, the City of Nokomis, Illinois (the "City") is authorized pursuant to the provisions of the Illinois Business District Development and Redevelopment Law, 65 ILCS 5/11-74.3-1 et seq. as amended (the "Business District Law") to designate an area within its boundaries as a business district for purposes of carrying out the development or redevelopment of such area pursuant to a specific plan; and

**WHEREAS**, the City's exercise of the powers granted in the Business District Law is dedicated to the promotion of the public interest, the enhancement of the tax base within the City, the creation of employment and the eradication of blight, and the use of such powers for the creation, development, improvement, maintenance and redevelopment of business districts is hereby declared to be for the public safety, benefit and welfare of the residents of the City and the State of Illinois, essential to the public interest and for public purposes; and

**WHEREAS**, a business district plan has been prepared by the consulting firm of Moran Economic Development, dated April 11, 2016, entitled "*Nokomis Business District Plan*" (the "Business District Plan"), which sets forth a plan for the development and redevelopment of an area which encompasses 326 parcels of property and rights-of-way in the City. Generally, the Proposed Business District Area (the "Area") takes in parcels in the central corridor of the City from the southwestern to the northeastern portion of the corporate boundary. From the southwestern corner of the City, the Area takes in parcels south of IL-16 and continues northeast to take in properties between Franklin St and Central St, extending to Singer Ave. In the central portion of the District, the Area extends northwest at Spruce St to take in properties adjacent to Montgomery St and Williams St.

**WHEREAS**, the City on April 20, 2016 and April 27, 2016 published a notice of public hearing to be held with respect to the approval of the Business District Plan and the designation of the Business District, and the City held a public hearing as provided in such notice on May 9, 2016 at which members of the public were allowed to comment with respect to the provisions of the Business District Plan; and

**WHEREAS**, the City now desires to form the Business District, to authorize the imposition within the Business District of certain taxes, and to make such other findings as necessary pursuant to the Business District Law.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NOKOMIS, ILLINOIS, AS FOLLOWS:**

**Section 1. Incorporation of Recitals.** The City Council hereby finds that the recitals to this Ordinance are true, complete and correct and hereby incorporates them into this Ordinance.

**Section 2. Findings.** The City hereby makes the following findings as supported by the Business District Plan:

(a) The Business District, on the whole, has not been subject to growth and development through investment by private enterprise or would not reasonably be anticipated to be developed without the adoption of the Business District Development Plan;

(b) The Business District Plan conforms to the comprehensive plan for the development of the City as a whole; and

(c) The Business District is a blighted area due to the presence, individually and in combination, of several conditions representative of those outlined in the Act.

These include:

- Deterioration of Site Improvements;
- Existence of Conditions Which Endanger Property by Fire;

Thus, the District is found to be eligible, as it represents a blighted portion of the City of Nokomis by reason of the predominance of deterioration of site improvements and existence of conditions which endanger property. These factors, in combination, contribute to the economic underutilization of the Area, as well as cause the Area to be an economic liability to the City. Additionally, the property in the District would not be reasonably anticipated to be developed or without the establishment of the Nokomis Business District and adoption of the Nokomis Business District Plan.

**Section 3. Approval of the District Plan.** The Business District Plan, a copy of which is attached hereto as **Exhibit A** and incorporated herein by this reference, is hereby approved.

**Section 4. Establishment of the Business District.** The Business District is hereby established pursuant to the Business District Plan and the Business District Law. The boundaries of the Business District are legally described in Appendix A of the Business District Plan and depicted in Exhibit A of the Business District Plan, which legal description and depiction are incorporated herein by this reference. The Business District includes 326 parcels of real property which are directly and substantially benefitted by the Business District Plan. The City Council shall have and possess, without limitation, such powers with respect to the Business District as authorized under the Business District Law and the Business District Plan.

**Section 5. Imposition of Business District Taxes.**

(a) A Business District Retailers' Occupation Tax is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of the State of Illinois, at retail within the Business District at the rate of 1.0% of the gross receipts from such sales made in the course of such business; and a Business District Service Occupation Tax is hereby imposed upon all persons engaged, in the Business District, in the business of making sales of service, **at the rate of 1% of the selling price of all tangible personal property transferred by such serviceman as an incident to a sale of service.** This "Business District Retailers' Occupation Tax" and this "Business District Service Occupation Tax" shall not be applicable to the sale of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances, modifications to a

motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes and needles used by diabetics, for human use.

(b) An occupation tax is hereby imposed upon all persons engaged in the business of renting, leasing, or letting rooms in a hotel, as defined in the Hotel Operators' Occupation Tax Act, at a rate of 1.0% of the gross rental receipts from the renting, leasing, or letting of hotel rooms within the Business District, excluding, however, from gross rental receipts the proceeds of renting, leasing, or letting to permanent residents of a hotel, as defined in the Hotel Operators' Occupation Tax Act, and proceeds from the tax imposed under subsection (c) of Section 13 of the Metropolitan Pier and Exposition Authority Act.

(c) The taxes imposed pursuant to (a) and (b) above shall be for the planning, execution and implementation of the Business District Plan and to pay for business district project costs as set forth in the Business District Plan, including payment of bonds, notes or other obligations (the "Obligations") issued to finance such business district project costs. These taxes shall be in full force and effect until the earlier of (i) payment of all Obligations in accordance with the Business District Plan, or (ii) the Dissolution date (as such term is defined in the Business District Law) of the Business District.

(d) The imposition of these Business District taxes is in accordance with the provisions of subsections (b), (c) and (d), respectively, of Section 11-74.3-6 of the Business District Law.

(e) The taxes imposed pursuant to (a) above and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department of Revenue of the State of Illinois. The Department of Revenue shall have full power to administer and enforce such provisions of this Ordinance. The taxes imposed pursuant to (b) above and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the City. The City shall have full power to administer and enforce such provisions of this Ordinance.

**Section 6. Business District Tax Allocation Fund.** The City hereby establishes the Nokomis Business District Tax Allocation Fund in the custody of the City Treasurer and each distribution of taxes imposed by this Ordinance to the City from the Department of Revenue shall be deposited in such fund for the purpose of paying or reimbursing business district project costs and obligations incurred in the payment of the costs.

**Section 7. Filing of Ordinance.** The City Clerk is hereby directed to file a certified copy of this Ordinance with the Department of Revenue on or before the 30th day of September, 2016.

**Section 8. Severability.** It is hereby declared to be the intention of the City Council that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof, and that the City Council intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. If any part, section or subsection of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect, unless the court making such finding shall determine that the valid portions standing alone are incomplete and are incapable of being executed in accord with the legislative intent.

**Section 9. Governing Law.** This Ordinance shall be governed exclusively by and construed in accordance with the applicable laws of the State of Illinois.

**Section 10. Further Authorization.** The Mayor is hereby authorized and directed to execute and deliver for and on behalf of the City, and the City Clerk is hereby authorized and directed where appropriate to attest, all certificates, documents, agreements or other instruments, and the Mayor or his designated representative is hereby authorized and directed to take any and all actions, as may be necessary, desirable, convenient or proper to carry out and comply with the provisions of all agreements or contracts, necessary or reasonably incidental to the implementation of this Ordinance.

**Section 11. Repealer.** All ordinances, resolutions and parts of ordinances and resolutions in conflict with this Ordinance are hereby repealed.

**Section 12. Adoption.** This Ordinance shall be in full force and effect from and after its passage, approval and publication, if required, as provided by law. The Business District shall take effect on the first day of January 2017.

Passed by the City Council of the City of Nokomis, Illinois on this 12th day of September, 2016 on the following vote:

YEAS: Commissioners Voyles, Brookshire, Lehnen, Voils, and Mayor Hill

NAYS: None

ABSENT: None

  
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Terry Hill, Mayor

[SEAL]

ATTEST:

  
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Angela Keagy, City Clerk

**STATE OF ILLINOIS** )  
 )  
**COUNTY OF MONTGOMERY** ) **SS.**  
 )  
**CITY OF NOKOMIS** )

I, Angela Keagy, certify that I am the duly appointed and acting City Clerk of the City of Nokomis, Montgomery County, Illinois.

I further certify that on September 12, 2016 the City Council of such municipality passed and approved Ordinance No. 2031 entitled AN ORDINANCE AMENDING ORDINANCE NO. 2024, ESTABLISHING THE NOKOMIS BUSINESS DISTRICT; APPROVING A BUSINESS DISTRICT PLAN; AUTHORIZING THE IMPOSITION AND COLLECTION OF A SALES TAX WITHIN SUCH BUSINESS DISTRICT; AND APPROVING CERTAIN ACTIONS IN CONNECTION WITH THE ESTABLISHMENT OF SUCH BUSINESS DISTRICT, which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 2031 including the Ordinance and a cover sheet thereof, was prepared and posted in the Municipal Complex commencing on September 13, 2016 and continuing for a least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request to the City Clerk.

DATED at Nokomis, Illinois, this 13th day of September, 2016.

(SEAL)

  
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ANGELA KEAGY, CITY CLERK