

ORDINANCE NO. _____

1 AN ORDINANCE amending Title 3 of the Lincoln Municipal Code relating to
2 Revenue and Finance by adding a new Chapter 3.26 to provide for the levy of a car rental occupation
3 tax; to establish definitions; to provide for administration, collections, returns, delinquencies and
4 recovery of unpaid amounts related to the tax; to determine how tax revenue will be used; and to
5 provide a sunset provision for the tax.

6 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

7 Section 1. That Title 3 of the Lincoln Municipal Code be amended by adding a new
8 section numbered 3.26.010 to read as follows:

9 **3.26.010 Purpose.**

10 Pursuant to the authority of Nebraska Revised Statute R.R.S. 1943, Section 15-203, the City
11 Council finds, determines and declares that it is appropriate that a tax be imposed on all car rental
12 businesses as herein defined for the purpose of raising revenues. The foregoing determination is
13 made with due consideration of business in the City and the relation of business to the municipal
14 welfare, together with relation thereof, to expenditures required by the City, and with consideration
15 of just, proper and equitable distribution of the tax burdens within the City and other properly
16 associated matters.

17 Section 2. That Title 3 of the Lincoln Municipal Code be amended by adding a new
18 section numbered 3.26.020 to read as follows:

19 **3.26.020 Definitions.**

20 As used in this chapter, the following words and phrases shall have the meanings ascribed
21 to them in this section, except where the context clearly indicates or requires a different meaning:

1 (a) Car rental business shall mean the business of renting cars, automobiles, vans, or
2 trucks with three-fourths (3/4) ton or less manufacturer's rated capacity without a driver, operator
3 or chauffeur.

4 (b) Person shall mean any natural person, individual, partnership, association,
5 organization or corporation of any kind or character engaging in the car rental business.

6 (c) Rent shall mean to hire out vehicles at stipulated rates per mile, per hour, per day,
7 per week, or per month; provided, however, that such term shall not include the act of hiring out
8 vehicles for a period exceeding thirty (30) consecutive days, and no tax shall be collected pursuant
9 to this section for any vehicle rental contract to the same renter for a period exceeding thirty (30)
10 consecutive days.

11 (d) Taxpayer shall mean any person engaged in a car rental business herein defined who
12 is required to pay the tax herein imposed.

13 (e) Vehicle rental contract shall mean each agreement with a car rental business to rent
14 a vehicle for thirty (30) or fewer consecutive days and each vehicle rented under a single document
15 shall be considered a separate vehicle rental contract.

16 For purposes of this chapter, a vehicle rental contract shall be considered to be made
17 within the city if the rental contract is executed by the renter within the city or the renter takes
18 possession of the vehicle within the city.

19 Exceptions. The tax imposed by this section shall not be measured by, and no tax
20 shall be collected for:

21 (1) Any vehicle rental contract in which the vehicle is provided on a
22 complimentary basis or for which no consideration is charged; and

1 (2) Any vehicle rental contract for which the consideration is paid by a person
2 not subject to the sales and use tax imposed by the Nebraska Revenue Act of 1967, as it is amended
3 from time to time.

4 Section 3. That Title 3 of the Lincoln Municipal Code be amended by adding a new
5 section numbered 3.26.030 to read as follows:

6 **3.26.030 Tax Imposed; Collection of Tax.**

7 After January 1, 2011, each person engaged in a car rental business shall pay an occupation
8 tax in the amount of four percent (4%) of the actual rental rates charged for each vehicle rental
9 contract made by that person within the city.

10 The tax imposed by this chapter may be shown as an add-on to the charge for renting a
11 vehicle and shall be collectible at the time the vehicle is furnished, regardless of when the charge
12 for the vehicle is paid. The car rental business operator shall remain responsible for payment of all
13 taxes imposed, whether or not the taxes are actually collected from the customers.

14 Section 4. That Title 3 of the Lincoln Municipal Code be amended by adding a new
15 section numbered 3.26.040 to read as follows:

16 **3.26.040 Return.**

17 Each and every person engaged in a car rental business within the City for the calendar
18 month beginning January 2011, and for each and every calendar month thereafter, shall prepare and
19 file, on or before the 25th of the month following on a form prescribed and furnished by the City
20 Finance Director, a return for the taxable calendar month, and at the same time pay to the City the
21 tax herein imposed. The return shall be verified and sworn to by the officer in charge of the
22 business. The return shall be considered filed on time if mailed in an envelope properly addressed

1 to the City Finance Director, postage prepaid and postmarked before midnight of the 25th of the
2 appropriate month.

3 Section 5. That Title 3 of the Lincoln Municipal Code be amended by adding a new
4 section numbered 3.26.050 to read as follows:

5 **3.26.050 Tax Cumulative.**

6 (a) The levy of the tax under this chapter is in addition to all other fees, taxes, excises
7 and licenses levied and imposed under any contract or any other provisions of this Code or
8 ordinances of the City, in addition to any fee, tax, excise or license imposed by the state.

9 (b) Payment of the tax imposed by this chapter shall not relieve the person paying the
10 same from payment of any other tax now or hereafter imposed by contract or ordinance or by this
11 Code, including those imposed for any business or occupation he or she may carry on, unless so
12 provided therein. The occupational taxes imposed by this chapter shall be cumulative except where
13 otherwise specifically provided.

14 Section 6. That Title 3 of the Lincoln Municipal Code be amended by adding a new
15 section numbered 3.26.060 to read as follows:

16 **3.26.060 Use of Revenue.**

17 The four percent (4%) occupation tax imposed by this chapter, less any administrative
18 expenses, shall be used to fund any expenditures that the Joint Public Agency, created to manage
19 and operate the City arena, is lawfully authorized to make.

20 Section 7. That Title 3 of the Lincoln Municipal Code be amended by adding a new
21 section numbered 3.26.070 to read as follows:

1 **3.26.070 Failure to File Return; Delinquency; Assessment by City Finance Director.**

2 (a) If any person neglects or refuses to file a return or make payment of the taxes as
3 required by this chapter, the City Finance Director shall make an estimate, based upon such
4 information as may be reasonably available, of the amount of taxes due for the period or periods for
5 which the taxpayer is delinquent, and upon the basis of such estimated amount, compute and assess
6 in addition thereto a penalty equal to ten percent (10%) thereof, together with interest on such
7 delinquent taxes, at the rate of one percent (1%) per month, or fraction thereof from the date when
8 due. Any such interest due may be compounded quarterly.

9 (b) The City Finance Director shall give the delinquent taxpayer written notice of such
10 estimated taxes, penalty, and interest, which notice must be served personally or by certified mail.

11 (c) Such estimate shall thereupon become an assessment, and such assessment shall be
12 final and due and payable from the taxpayer to the City Finance Director ten (10) days from the date
13 of service of the notice or the date of mailing by certified mail; however, within such ten (10) day
14 period the delinquent taxpayer may petition the City Finance Director for a revision or modification
15 of such assessment and shall, within such ten-day period, furnish the City Finance Director the facts
16 and correct figures showing the correct amount of such taxes.

17 (d) Such petition shall be in writing, and the facts and figures submitted shall be
18 submitted in writing and shall be given under oath of the taxpayer.

19 (e) The City Finance Director may then modify such assessment in accordance with the
20 facts which he or she deems correct. Such adjusted assessment shall be made in writing, and notice
21 thereof shall be mailed to the taxpayer within ten (10) days; and all such decisions shall become final
22 upon the expiration of thirty (30) days from the date of service, unless proceedings are commenced
23 within that time for appeal in the District Court.

1 Section 8. That Title 3 of the Lincoln Municipal Code be amended by adding a new
2 section numbered 3.26.080 to read as follows:

3 **3.26.080 Administration of Chapter; Miscellaneous Provisions.**

4 (a) The administration of the provisions of this chapter are hereby vested in the City
5 Finance Director, or his designee, who shall prescribe forms in conformity with this chapter for the
6 making of returns, for the ascertainment, assessment and collection of the tax imposed hereunder,
7 and for the proper administration and enforcement hereof.

8 (b) All notices required to be given to the taxpayer under the provisions of this chapter
9 shall be in writing. Notices shall be mailed by registered or certified mail, postage prepaid, return
10 receipt requested, to the taxpayer at his or her last known address.

11 (c) It shall be the duty of every taxpayer to keep and preserve suitable records and other
12 books or accounts as may be necessary to determine the amount of tax for which he/she is liable
13 hereunder.

14 (1) Records of the gross revenue by which this tax is measured shall be kept
15 separate and apart from the records of other sales or receipts in order to facilitate the examination
16 of books and records as necessary for the collection of this tax.

17 (2) It shall be the duty of every such taxpayer to keep and preserve for a period
18 of four (4) years all such books, invoices and other records, which shall be open for examination at
19 any time by the City Finance Director or his or her duly designated persons. If such person keeps
20 or maintains his books, invoices, accounts or other records, or any thereof, outside of the state, upon
21 demand of the City Finance Director he/she shall make the same available at a suitable place within
22 the City, to be designated by the City Finance Director, for examination, inspection and audit by the
23 City Finance Director or his or her duly authorized persons. The taxpayer shall reimburse the City

1 for the reasonable costs of the examination, inspection and audit if the City Finance Director
2 determines that the taxpayer paid ninety percent or less of the tax owing for the period of the
3 examination.

4 (3) The City Finance Director, in his or her discretion, may make, permit or cause
5 to be made the examination, inspection or audit of books, invoices, accounts or other records so kept
6 or maintained by such person outside of the state at the place where same are kept or maintained or
7 at any place outside the state where the same may be made available, provided such person shall
8 have entered into a binding agreement with the City to reimburse it for all costs and expenses
9 incurred by it in order to have such examination, inspection or audit made in such place.

10 (d) For the purpose of ascertaining the correctness of a return, or for the purpose of
11 determining the amount of tax due from any person, the City Finance Director or his or her duly
12 authorized persons, may conduct investigations concerning any matters covered by this chapter; and
13 may examine any relevant books, papers, records or memoranda of any such person.

14 Section 9. That Title 3 of the Lincoln Municipal Code be amended by adding a new
15 section numbered 3.26.090 to read as follows:

16 **3.26.090 Recovery of Unpaid Tax by Action at Law.**

17 (a) The City Finance Director may also treat any such taxes, penalties or interest due and
18 unpaid as a debt due the City.

19 (b) In case of failure to pay the taxes, or any portion thereof, or any penalty or interest
20 thereon when due, the City may recover at law the amount of such taxes, penalties and interest in
21 any court of Lancaster County, Nebraska or of the county wherein the taxpayer resides or has its
22 principal place of business having jurisdiction of the amounts sought to be collected.

1 (c) The return of the taxpayer or the assessment made by the City Finance Director, as
2 herein provided, shall be prima facie proof of the amount due.

3 (d) The City Attorney may commence an action for the recovery of taxes due under this
4 chapter and this remedy shall be in addition to all other existing remedies, or remedies provided in
5 this chapter.

6 Section 10. That Title 3 of the Lincoln Municipal Code be amended by adding a
7 new section numbered 3.26.100 to read as follows:

8 **3.26.100 Suspension or Revocation of Licenses for Failure to Pay Tax; Hearing.**

9 If the Mayor or the Mayor's designee, after holding a hearing, shall find that any person has
10 willfully evaded payment or collection and remittance of the tax imposed by this chapter, such
11 official may suspend or revoke any City license, permit or other approval held by such tax evader.
12 Said person shall have an opportunity to be heard at such hearing to be held not less than seven (7)
13 days after notice is given of the time and place of the hearing to be held, addressed to the last known
14 place of business of such person. Pending the notice, hearing and finding, any license, permit or
15 other approval issued by the City to the person may be temporarily suspended. No suspension or
16 revocation hereunder shall release or discharge the person from civil liability for the payment or
17 collection and remittance of the tax, nor from prosecution for such offense.

18 Section 11. That Title 3 of the Lincoln Municipal Code be amended by adding a
19 new section numbered 3.26.110 to read as follows:

20 **3.26.110 Sunset Provision.**

21 The occupation tax imposed by this chapter shall terminate and collection of the tax shall
22 cease upon the Joint Public Agency, created to manage and operate the City arena, meeting all of

1 its financing obligations related to the costs and other lawful expenditures of the arena and
2 associated improvements.

3 Section 12. That Sections 1 through 11 of this ordinance shall be codified in the
4 Lincoln Municipal Code as Chapter 3.26 entitled “Car Rental Occupation Tax.”

5 Section 13. That this ordinance shall take effect and be in force from and after its
6 passage and publication in one issue of a daily or weekly newspaper of general circulation in the
7 City according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2010: _____ Mayor
