

SALES, GROSS RECEIPTS AND USE TAX ORDINANCE

ORDINANCE NO. 300

AN ORDINANCE TO ESTABLISH AND REGULATE A CITY SALES, GROSS RECEIPTS, AND USE TAX.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MAX, NORTH DAKOTA:

City Sales, Gross Receipts, and Use Tax

Section 1. Definitions and Provisions

All terms defined and all provisions contained in Chapter 40-05.1, Chapter 57-39.2, Chapter 57-39.4, Chapter 57-39.5, Chapter 57-39.6, and Chapter 57-40.2 of the North Dakota Century Code (NDCC), including all future amendments, are adopted by reference in this chapter.

Section 2. Collections and Administration

Where not in conflict with the provisions of this Ordinance, the provisions of N.D.C.C. 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

Except as otherwise provided in this chapter, there is imposed a tax of 1 percent upon the gross receipts of retailers from all events taxable by the state under NDCC Chapter 57-39.2.

1. Tangible personal property, consisting of goods, wares, or merchandise.
2. The furnishing or service of communication services.
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.
4. The leasing or renting of a hotel or motel room or tourist court of accommodations.
5. Magazines and other periodicals.

6. The leasing or renting of tangible personal property, the tax transfer of title to which has not been subjected to tax under this chapter.
7. Sales of tangible personal property through vending machines taxed by the state under NDCC Section 57-39.2-03.3.

Section 4. Alcoholic Beverages Gross Receipts Tax

Except as otherwise provided in this chapter, there is imposed a tax of 1 percent upon the gross receipts of retailers from all events taxable by the state under NDCC Chapter 57-39.6. Except as otherwise provided, a gross receipts tax at the rate of 1 percent is imposed on the storage, use, or consumption of alcoholic beverages in this city.

Section 5. Gross Receipts of New Farm Machinery and New Farm Irrigation Equipment

This ordinance deliberately imposes no gross receipts tax on new farm machinery and new farm irrigation equipment within the city.

Section 6. Use Tax Imposed

Except as otherwise provided in this chapter, there is imposed a tax of 1 percent on all events taxable by the state under NDCC Chapter 57-40.2. With respect to the purchase price of tangible personal property used by a contractor or subcontractor to fulfill a contract as defined in NDCC section 57-40.2-03.3, the tax imposed by this section applies only to bids submitted on or after the effective date of this ordinance.

Included within the structure of this tax is; the storage, use, or consumption in the City of Max on the following:

1. The purchase price of tangible personal property purchased at retail for storage, use or consumption in this city.
2. The fair market value of tangible personal property which was not originally purchased for storage, use or consumption in the city, at the time it is brought in the City of Max.
3. Tobacco products subject to the state use tax under NDCC section 57-40.2-03.2.
4. The purchase price or fair market value which ever is greater, of tangible personal property used for a contractor or sub-contractor to fulfill a contract which is subject to the state use tax under NDCC section 57-40.02-03.

Section 7. 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 of those events exempted from the imposition and computation of the state sales tax or use tax pursuant to NDCC Chapters 57-39.2 and 57-40.2.

2. All of those events exempted from the imposition and computation of the state farm machinery gross receipts tax pursuant to NDCC Chapter 57-39.5.
3. All of those events exempted from the imposition and computation of the state alcoholic beverage gross receipts tax pursuant to NDCC Chapter 57-39.6.
4. All other events exempted from imposition of the state sales tax, gross receipts tax, or use tax pursuant to state law.
5. Sales to contractors that are exempt pursuant to subsection 15 of N.D.C.C. 57-39.2-04 shall be exempt from any city sales tax, but contractors shall be subject to the city use tax on those items used within the city that would be taxed pursuant to N.D.C.C. 57-40.2-03.3 on which the city sales tax has not previously been paid.

Section 8. Maximum Tax Imposed

Any patron or user paying a tax imposed by this Ordinance in excess of \$25.00 upon any single transaction of one or more items may obtain a refund of the excess tax payment by filing a request for refund upon the forms provided by the Tax Commissioner.

Section 9. Tax Administrator

The tax administrator shall be the North Dakota State Tax Commissioner as prescribed by NDCC section 57-01-02.1. The city auditor is hereby authorized and directed to contract with the North Dakota State Tax Commissioner for the administration and collection of taxes established under this chapter, subject to confirmation of the contract by the city governing body. The city auditor and the Tax Commissioner shall have the powers specified in NDCC section 57-39.2-21.

Section 10. Dedication of Tax Proceeds

The proceeds from the sales, gross receipts and use taxes imposed by this chapter shall be used in the following manner:

All revenues raised and collected under this ordinance shall be dedicated to city maintenance, city infrastructure repairs as they arise and/or debt relief related with such projects.

Section 11: Dispersal of Funds

Funds collected from the one percent sales, use, and gross receipts tax may only be dispersed by the City of Max City Council. This may only be accomplished after a full council exploration and discussion regarding the best use and dispersal of the tax revenue.

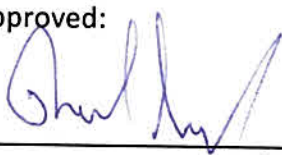
Section 12: Saving Clause

Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional, or invalid for any reason, the remainder of this ordinance shall not be affected thereby.

Section 13. Effective Date

This ordinance shall take effect following final passage and adoption according to law. The sales tax, gross receipts tax, and use tax collection provisions shall be implemented and take effect on April 1, 2011.

Approved:



(Mayor)

Attest:



(City Auditor)

Date of first reading:

October 4, 2010

Date of second reading, final passage and adoption:

November 1, 2010

Date of first reading of amendments:

December 6, 2010

Date of second reading, final passage and adoption of amendments:

December 15, 2010