

City of Minnewaukan Ordinance Number 18

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

BE IT ORDANIED BY THE CITY COUNCIL OF THE CITY OF MINNEWAUKAN, NORTH DAKOTA:

City Sales, Gross Receipts, and Use Tax

Section 1. Definitions

All terms defined in Chapter 57-39.2, 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. Sales Tax Imposed

Except as otherwise provided in this chapter, there is imposed a tax of 2 percent 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 the following to consumers or users (NDCC 57-39.2-02.1)

1. Tangible personal property, consisting of goods, wares, or merchandise.
2. The furnishing or service of communication services or steam other than steam used for processing agricultural 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.
4. Magazines and other periodicals.
5. The leasing or renting of a hotel or motel room or tourist court accommodations.
6. The leasing or renting of tangible personal property, the transfer of title to which has not been subjected to a retail sales or use tax under this chapter.
7. Tobacco products taxed by the state.
8. Sales of tangible personal property through vending machines taxed by the state under NDCC section 57-39.2-03.3.

Section 3. Alcoholic Beverages Gross Receipts Tax

Except as otherwise provided in this chapter, there is imposed a tax of 2 percent upon the gross receipts of retailers from all sales at retail of alcoholic beverages (NDCC 57-39.6-02); and except as otherwise provided in this chapter, a gross receipts tax at the rate of two percent is imposed on the storage, use, or consumption of alcoholic beverages in this city (NDCC 57-39.6-05).

Section 4. Use Tax Imposed

Except as otherwise provided in this chapter, an excise tax at the rate of 2 percent is imposed on the storage, use, or consumption in this city on the following (NDCC 57-40.2-02.1):

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.
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, whichever 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 57-40.2-03.3.

Section 5. 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 sales exempted from the imposition and computation of the state sales tax or use tax pursuant to NDCC sections 57-39.2-04, 57-39.2-04.1, 57-40.2-04, and 57-40-04.1.
2. All of those sales exempted from the imposition and computation of the state alcoholic beverage gross receipts tax pursuant to NDCC chapter 57-39.6.
3. All other transactions or storage, use or consumption exempted from imposition of the state sales tax, gross receipts tax, or use tax pursuant to state law.
4. Natural gas sales.
5. New farm machinery used exclusively for agricultural purposes.

Section 6. Tax Administrator

The tax administrator shall be the North Dakota State Tax Commissioner. 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 7. Tax Returns and Reports

The tax administrator is authorized to create, publish, and require the use of such tax return forms and reports as, in the judgment of the tax administrator, are necessary to administer the taxes provided for in this chapter. Returns shall be filed with the North Dakota State Tax Commissioner in the same manner and at the same time as retailers file their returns of gross receipts for state sales, gross receipts, and use taxes. The taxes imposed under this chapter shall be paid and collected as nearly as practical in accordance with the payment, collection and penalty provisions, and the refund and interest provisions of NDCC Chapters 57-39.2, 57-39.6, and 57-40.2.

Section 8. Records Required

Every retailer required to make a report and pay any tax under this chapter shall preserve such records of the gross receipts of that sale as are required under NDCC section 57-39.2-10.

Section 9. Corporate Officer, Governor and Manager Liability

Officers, governors or managers of any corporation or limited liability company required to remit taxes imposed by this chapter are personally liable for the failure of the corporation or limited liability company to file required returns or remit required payments. The dissolution of a corporation or limited liability company shall not discharge this liability. The sum due for the liability may be assessed and collected pursuant to the provisions of this chapter for the assessment and collection of other liabilities. If the officers, governors or managers elect not to be personally liable for the failure to file the required returns or to pay the tax due, the corporation or limited liability company must be required to make a cash deposit or post with the North Dakota Tax Commissioner a bond or undertaking executed by a surety company authorized to do business in this state. The cash deposit, bond or undertaking must be in an amount equal to the estimated annual sales tax liability of the corporation or limited liability company.

Section 10. Dedication of Tax Proceeds

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

- to access grant funds that require local matching
- for infrastructure maintenance and or improvements

- for economic development and or tourism

Section 11. Effective Date

This ordinance shall take effect following final passage, adoption and due publication according to law. The tax shall be implemented and take effect on July 1, 2011.

Approved:

Minnewaukan City Mayor

Attest:

Minnewaukan City Auditor

Date of first reading: Februray 10, 2011

Date of second reading, final passage and adoption : March 8, 2011