

ORDINANCE NO. 136A

**AN ORDINANCE TO ESTABLISH AND REGULATE A CITY SALES,
USE, AND GROSS RECEIPTS TAX UNDER THE HOME RULE CHARTER OF THE
CITY OF WASHBURN.**

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WASHBURN,
MCLEAN COUNTY, NORTH DAKOTA:

SALES, USE, AND GROSS RECEIPTS TAX

Definitions.

All terms defined in chapters 40-05.1, 57-39.2, 57-39.4, 57-39.5, 57-39.6, and 57-40.2 of the North Dakota Century Code (N.D.C.C.), including any future amendments, are adopted by reference. All references to the N.D.C.C. include amendments adopted by the North Dakota Legislative Assembly.

Collection 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.

Sales Tax Imposed.

Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided by this Ordinance, or the sales and use tax laws of the State of North Dakota, a tax of 2% percent is imposed upon the gross receipts of retailers from all sales at retail, including the leasing or renting of tangible personal property, within the corporate limits of the of the city of Washburn, North Dakota.

Use Tax Imposed.

Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided in this Ordinance, or the sales and use tax laws of the State of North Dakota, an excise tax is imposed upon the storage, use, or consumption within the corporate limits of the city of Washburn, North Dakota of tangible personal property purchased at retail for storage, use, or consumption in this city, at the rate of 2% percent of the purchase price of the property. An excise tax is imposed on the storage, use, or consumption within the corporate limits of the city of Washburn, North Dakota of tangible personal property not originally purchased for storage, use, or consumption in this city at the rate of 2% percent of the fair market value of the property at the time it was brought into this city.

Gross Receipts of Alcoholic Beverages.

Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided in this Ordinance, a gross receipts tax of 2% percent is imposed upon all gross receipts from the sale of alcoholic beverages within the city. A person who receives alcoholic beverages for storage, use, or consumption in this state is subject to tax on storage, use, or consumption of those alcoholic beverages at the rate of 2% percent.

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

Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided in this Ordinance, a gross receipts tax of 2% percent is imposed upon all gross receipts from the sale of new farm machinery and new farm irrigation equipment within the city. A person who receives new farm machinery or new farm irrigation equipment for storage, use, or consumption in this state is subject to tax on storage, use, or consumption of that machinery and/or equipment at the rate of 2% percent.

Exemptions.

This Ordinance does not provide for any additional exemptions from imposition and computation of the city sales and use tax other than those provided by state law.

In addition to the exemptions provided by state law, this Ordinance provides exemptions from imposition and computation of the city sales or use tax for sales of natural gas.

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.

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.

Contract with Tax Commissioner.

The Washburn City Auditor is hereby authorized to contract with the Tax Commissioner for administration and collection of taxes imposed by this Ordinance. The City Auditor has all powers granted to the Tax Commissioner and in the absence of a valid contract with the Tax Commissioner or failure of the Tax Commissioner to perform the delegated duties, shall perform these duties in place of the Tax Commissioner.

Dedication of Tax Proceeds.

1. All revenues raised and collected under this ordinance shall be dedicated only to community development, infrastructure and economic development.

All revenue shall be maintained in the fund, to be known as the Washburn City Sales and Use Tax Fund, separate and apart from all other funds:

The revenue contained in such fund shall be used for:

a.) Fifty percent (50%) of one cent (.01) for community development and infrastructure. The funds may be used for the purchase of, construction, operation and maintenance of Washburn area capital improvements including but not limited to, street system, water system, sewer systems, public safety improvements, park system improvements, or other projects which are deemed important for the betterment of the community by the Washburn Sales and Use Tax Committee.

b.) Fifty percent (50%) of one cent (.01) for community and economic development projects enhancing the general welfare of the Washburn area including, but not limited to, business and commerce expansion & retention and other projects, in and outside the city limits, that will enhance the growth, maintenance, and development of the community of Washburn.

c.) One hundred percent (100%) of one cent (.01) solely for the purpose of construction, operation and maintenance of Washburn capital improvements including street systems, sewer systems, and water systems of the community of Washburn.

Dispersal of Funds

Funds collected from the two percent sales tax may only be dispersed by the Washburn City Commission upon recommendation of the Washburn Sales and Use Tax Committee, the membership of which shall be as follows:

1. One member of Washburn City Commission selected by the Washburn City Commission.
2. A representative selected by the Washburn City Commission. This person may be a member of the Washburn City commission.
3. A Washburn Park Board representative selected by the Washburn Park Board.
4. Two representatives selected by the Washburn Civic Club.

Appointments to the Washburn Sales and Use Tax Committee shall be made by the respective organizations annually, at annual meetings, or annual reorganization meetings. Notification of such appointments shall be made to the President of the City Commission Following the appointment.

The City Commission shall accept the recommendation of the committee as to the utilization of these funds, provided the recommendations are for lawful purposes and in accordance with the ordinance.

Funds not dispersed each year shall accumulate in the sales and use tax fund and be allocated the following year or years in which justifiable projects warrant.

Compensation.

City sales, use, and gross receipts tax permit holders are allowed to retain a portion of tax collected under this ordinance to help recover administrative expenses. This compensation shall

equal 3% percent of the city tax due; however, the deduction is limited to \$83.34 per month or \$250.00 per quarter. A tax return must be filed and paid in full by the scheduled due date or the compensation will be disallowed and the tax obligation will be subject to penalty and interest.

Effective Date.

This Ordinance shall take effect after its passage, approval, and publication, but not prior to January 1, 2009.

Termination Date.

This ordinance shall be in full force and effect from and after its final passage, approval and publication.

Dated this ____ day of _____, 2008

President, City Commission

Attest: _____
Milissa Price, CEDD