

ORDINANCE # 136

AN ORDINANCE RELATING TO SALES AND USE TAX TO THE HOME RULE CHARTER OF THE CITY OF WASHBURN.

Section 1: Definitions

All terms defined in Chapters 57-39.2 and 57-40.2 NDCC, including any future amendments, are adopted by reference. All references to the North Dakota Century Code include amendments adopted by the legislature of the State of North Dakota.

Section 2: Sales Tax Imposed

Except as otherwise provided in this chapter, a tax of one percent (1%) is imposed 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 Washburn, North Dakota. Such sales tax shall parallel the State of North Dakota Sales and Use tax law. All of the exemptions applicable for state sales and use tax apply to the Washburn sales and use tax including exemptions for tax exempt entities (schools, counties, state agencies, etc.). Such sales tax shall be applied to the following:

- 1) Tangible personal property, consisting of goods, wares, or merchandise.
- 2) The furnishing or service of communications 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) Sale of alcoholic beverages and tobacco products as defined in NDCC section 57-39.2-03.2.

Section 3: Use Tax Imposed

Except as otherwise provided in this chapter, an excise tax of one percent (1%) is imposed on the storage, use or consumption on the City of Washburn on:

- 1) The purchase price of tangible personal property purchased at retail for storage, use or consumption within the 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 into the City of Washburn.
- 3) Alcoholic beverages and tobacco products which are stored, used or consumed in this city, as defined in NDCC section 57-40.2-03.2.
- 4) 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 applies only to bids submitted on or after October 1, 2000.

Section 4: 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 sales, storage, use or consumption of tangible personal property which are exempt from imposition and computation of the sales or use tax of the State of North Dakota are specifically exempt from the provisions of this chapter.
- 2) Natural gas.

Section 5: Maximum Tax Imposed

No single transaction involving one or more items is subject to a tax in excess of twenty-five dollars (\$25.00).

Section 6: Collection and Administration

The tax commissioner and the city auditor shall have the powers enumerated in the provisions of NDCC chapters 57-39.2 and 57-40.2 relating to the collections and administration of the state sales and use tax including all administrative rules adopted by the tax commissioner. The tax commissioner is authorized to establish rate tables integrating the tax imposed by this chapter with other state, county and city taxes.

Section 7: City Auditor Empowered to Contract with State Tax Commissioner

The city auditor is authorized to contract with the tax commissioner for the administration and collection of taxes imposed by this chapter. The city auditor has all the powers granted the commissioner and in the absence of a valid contract with the commissioner or failure of the commissioner to perform the delegated duties, shall perform those duties in the place of the commissioner.

Section 8: Corporate Officer Liability

Officers of any corporation required to remit taxes imposed by this chapter are personally liable for the failure of the corporation to file required returns or remit required payments.

The dissolution of a corporation shall not discharge an officer's liability for a prior failure of the corporation to make a return or remit the tax due. The tax, penalty and interest due may be assessed and collected pursuant to the provisions adopted by this chapter.

Section 9: Deduction to Reimburse Retailer for Administrative Expenses

1. A retailer who pays the tax due hereunder within the time limitations prescribed may deduct and retain three percent (3%) of the tax due.
2. The aggregate of deductions allowed by this section may not exceed Two Hundred Fifty and no/100 Dollars (\$250.00) per quarterly period for each business location required to remit sales tax hereunder.
3. The deduction allowed retailers by this section is to reimburse retailers for expenses incurred in keeping records, preparing and filing returns, remitting the tax, and supplying information to the Auditor and Commissioner upon request.

Section 10: Dedication of Tax Proceeds

- 1) All revenues raised and collected under this ordinance shall be dedicated only to community development and 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%) 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 systems, 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%) 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.

Section 11: Dispersal of Funds

Funds collected from the one 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:

- a) One member of the Washburn City Commission selected by the Washburn City Commission.
- b) A representative selected by the Washburn City Commission. This person may be a member of the Washburn City Commission.
- c) A Washburn Park Board representative selected by the Washburn Park Board.
- d) 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 terms of the ordinance.

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

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: Penalties

1. If any person fails to file a return or corrected return or to pay any tax within the time required by this chapter or, if upon audit, is found to owe additional tax, such person shall be subject to a penalty as established in Section 57-39.2-18(1) of the North Dakota Century Code. Such penalty may be imposed by the Municipal Court of the City of Washburn or any other Court of competent jurisdiction.
2. The certificate of the Auditor, or where applicable, the North Dakota State Tax Commissioner to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this chapter, shall be prima facie evidence thereof.
3. Any person failing to comply with any of the provisions of this chapter or failing to remit within the time herein provided th tax due on any use, sale or purchase of tangible personal property subject to said sales and use tax shall, in addition to penalties imposed hereinabove, be subject to a fine, upon conviction in the Municipal Court, not to exceed Five Hundred Dollars (\$500.00).

Section 14: Tax Commencement

The taxes imposed herein shall apply to sales and uses from and after the 1st day of October, 2000.

Section 15: Termination

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

Dated this 7th day of August, 2000.


President, City Commission

Attest: Jeneen Loe
Jeneen Loe, City Auditor

1st Reading: July 17, 2000

2nd Reading: August 7, 2000

Final Passage: August 7, 2000