

ORDINANCE NO. 6

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

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WISHEK, MCINTOSH
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.

Revocation of all Prior Ordinances.

All previously enacted ordinances related to the collection of use and sales, and the rates and distributions thereof, are hereby revoked

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 two (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 city of Wishek, 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 Wishek, North Dakota of tangible personal property purchased at retail for storage, use, or consumption

in this city, at the rate of two (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 Wishek, North Dakota of tangible personal property not originally purchased for storage, use, or consumption in this city at the rate of two (2) percent of the fair market value of the property at the time it was brought into this city.

With respect to the purchase price of tangible personal property used by a contractor or subcontractor to fulfill a contract as defined in N.D.C.C. § 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.

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 two (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 two (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 two (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 two (2) percent.

Contract with Tax Commissioner.

The Wishek 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

Sales and use tax funds collected shall be distributed as follows:

1. 25% to the Job Development Authority for the City of Wishek to be used by said entity for any purpose authorized under law and the governing documents thereof;
2. 25% to the Wishek Park Board for deposit in the general fund to be used by said entity for any purpose authorized under law and the governing documents thereof;
3. 25% to the Wishek Park Board for the deposit in the pool fund and used for the construction, operation, and/or maintenance of a swimming pool located at the Wishek Municipal Park; and

4. 25% to the City of Wishek for deposit in the city's general fund to be used by said entity for any purpose authorized under law and the governing documents thereof. Once per quarter, the City Council for the City of Wishek may reallocate by motion passed by a majority of the members of the council all or part of the 25% of the sales and use tax funds dedicated by this section to the general fund of the City of Wishek. The reallocation may only be made to the following: the Job Development Authority for the City of Wishek, the Wishek Park Board general fund, and/or the Wishek Park Board pool fund. The vote on reallocation motion must occur no later than the business day before the date set by the tax commissioner for submission of changes to tax fund allocation for the effective date of the reallocation, and otherwise be in conformity with all rules and parameters set by the tax commissioner.

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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 three (3) percent of the city tax due; however, the deduction is limited to two hundred fifty dollars per return. 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, 2023.

Passed by the City Council for the City of Wishek, North Dakota on the 14th day of November, 2022 by a vote of:

6 Voting for the ordinance

0 Voting against the ordinance

0 Absent from the vote

0 Abstaining from the vote

Brenda Dohn

Brenda Dohn, Mayor

ATTEST:

Mary Vickers

Mary Vickers, City Auditor

First Reading: November 7th 2022

Second Reading: November 14th 2022