

ORDINANCE NO. 5511

AN ORDINANCE AMENDING THE TITLE OF CHAPTER 28 ½ ARTICLE IV; REPEALING AND REENACTING SECTIONS 28 ½-110 THROUGH 28 ½ - 112 AND SECTIONS 28 ½ -114 THROUGH 28 ½ 117; ENACTING ARTICLE V, SECTIONS 28 ½-131 THROUGH 28 ½-140; AND REPEALING AND REENACTING ARTICLE VI IN CHAPTER 28 ½ OF THE MINOT CODE OF ORDINANCES

WHEREAS, the City of Minot is a political subdivision and home rule city in North Dakota with powers and authority pursuant to its Home Rule Charter and Title 40 of the North Dakota Century Code, including N.D.C.C. § 40-05.1-06,

WHEREAS, the City of Minot has previously amended its Home Rule Charter to explicitly authorize imposition of a sales and use tax,

WHEREAS, the City of Minot has previously expired sales and use tax ordinances that are still included in the City Code of Ordinances that the City now intends to repeal,

AND WHEREAS, the City of Minot has two previously enacted taxes (second penny -- sales and use taxes) which are both presently scheduled to terminate at midnight on June 1, 2021, with the City now desiring to enact an Ordinance which will be implemented on and effective at 12:01 A.M. on June 1, 2021, which will authorize city sales and use tax to fund construction, operation, maintenance of Minot’s improvements, including but not limited to street systems, sewer systems, water systems, parking, airport, libraries, landfills, flood control, public safety improvements, etc.; flood control projects; property tax relief; and, if additional funding is needed, the Northwest Area Water Supply Project.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MINOT, NORTH DAKOTA, DOES RESOLVE AS FOLLOWS:

§1. Chapter 28 1/2, Article IV, is hereby amended to be titled as follows:

ARTICLE IV – SALES AND USE TAXES (FIRST PENNY)

§2. Chapter 28 ½, Article IV, Sections 28 ½ - 110 through 28 ½ - 112, inclusive, are hereby repealed and reenacted to read as follows:

Secs. 28 ½-110 – 28 ½ -112. – Reserved.

§3. Chapter 28 ½, Article IV, Sections 28 ½ - 113 is hereby repealed and reenacted to read as follows:

Sec. 28½-113. - Maximum tax imposed.

Any patron or user paying a tax imposed by this article in excess of fifty dollars (\$50.00) upon any single transaction of one (1) or more items may obtain a credit or refund of the excess tax at the time of purchase directly from the vendor or request a

refund of the excess tax payment by filing a request for refund upon the forms provided by the tax commissioner.

§4. Chapter 28 ½, Article IV, Sections 28 ½ - 114 through 28 ½ - 117, inclusive, are hereby repealed and reenacted to read as follows:

Secs. 28 ½-114 – 28 ½ -117. – Reserved.

§5. Chapter 28 ½, Article V, Sections 28 ½ - 131 through 28 ½ - 140 inclusive, is hereby enacted to read as follows:

ARTICLE V – SALES AND USE TAXES (SECOND PENNY)

Sec. 28½-131. - 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 NDCC are adopted by reference with respect to this article.

Sec. 28½-132. - Collection and administration.

Where not in conflict with the provisions of this article, the provisions of NDCC 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 article.

Sec. 28½-133. - Sales tax imposed.

Subject to the provisions of Section 40-05.1-06, N.D.C.C., and except as otherwise provided by this article, or the sales and use tax laws of the State of North Dakota, a tax of one (1) per cent 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 Minot, North Dakota.

Sec. 28½-134. - Use tax imposed.

Subject to the provisions of Section 40-05.1-06, N.D.C.C., and except as otherwise provided in this article, 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 Minot, North Dakota, of tangible personal property purchased at retail for storage, use, or consumption in this city, at the rate of one (1) per cent 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 Minot, North Dakota of tangible personal property not originally purchased for storage, use, or consumption in this city at the rate of one (1) per cent 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 Section 57-40.2-03.3, N.D.C.C., the tax imposed by this section applies only to bids submitted on or after the effective date of this article.

Sec. 28½-135. - Gross receipts of alcoholic beverages.

This article recognizes enactment of new provisions under chapter 28½, taxation, article V of the City of Minot Code of Ordinances, with the provisions of this article relating solely to implementation of city sales and use taxes. However, recognizing that article VII (alcoholic beverage gross revenues tax) of chapter 28½ of the Minot Code of Ordinances does not have a current expiration date, the terms and provisions of that existing ordinance and tax relating to gross receipts of alcoholic beverages remains intact and is not modified or terminated by this article.

Sec. 28½-136. - Exemptions.

This article provides for exemptions from imposition and computation of the city sales and use tax for mobile homes, new farm machinery, and new farm irrigation equipment and for any additional exemption provided by state law.

Sec. 28½-137. - Contract with tax commissioner.

The Minot Finance Director is hereby authorized to contract with the tax commissioner for administration and collection of taxes imposed by this article. The Finance Director 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.

Sec. 28½-138. - Dedication of tax proceeds.

The proceeds of the taxes authorized under this article (the “Second Penny Sales Tax”) shall be placed in a separate fund, which shall be dedicated exclusively as follows:

- (1) 40% thereof shall be expended for the construction, operation, and maintenance of Minot’s improvements, including, but not limited to, street systems, sewer systems, water systems, parking, airport, libraries, landfills, flood control, public safety improvements, etc. (the “Improvements Sales Tax”).
- (2) 30% thereof shall be expended on permanent flood control projects (the “Flood Control Sales Tax”).
- (3) 30% thereof shall be expended to provide property tax relief through annual appropriations to reduce the total dollar levy.

- (4) Should the Finance Director determine that additional funding is necessary to fund the city's share of the current Northwest Area Water Supply Project then the funds for each of the three above uses shall be proportionately reduced to provide the funds necessary to complete the Northwest Area Water Supply Project, provided that, in the event that the City has issued any bonds or other obligations payable from the Improvements Sales Tax or the Flood Control Sales Tax, any use of such portions of the Second Penny Sales Tax for the Northwest Area Water Supply Project shall be made only after annual debt service on such bonds has been paid or provided for.

Proceeds from the tax imposed pursuant to this article may be used to make direct payment for costs described hereinabove or may be pledged to pay debt service on bonds or other debt instruments which may be sold to finance such costs without submitting the question of such issuance to the voters of the city.

Sec. 28½-139. – Maximum tax imposed.

Any patron or user paying a tax imposed by this article in excess of fifty dollars (\$50.00) upon any single transaction of one (1) or more items may obtain a credit or refund of the excess tax at the time of purchase directly from the vendor or request a refund of the excess tax payment by filing a request for refund upon the forms provided by the tax commissioner.

Sec. 28½-140. - Effective date.

This article shall be accepted after its passage and approval on second reading by the Minot City Council, but will not be implemented prior to 12:01 AM on June 1, 2021, following termination of the city sales and use taxes currently in existence. This article and the Second Penny Sales Tax authorized hereby shall remain in effect and collected until the later of June 1st, 2084 and the date upon which no obligations secured by the Second Penny Sales Tax remain outstanding.

§6. Chapter 28 ½, Article VI is hereby repealed and reenacted to read as follows:

ARTICLE VI – Reserved.

Secs. 28 ½-141 – 28 ½ -160. – Reserved.

§7. **Implementation Date of Amendments.** The ordinance amendments shall be implemented at 12:01 AM on June 1, 2021.

§8. **Effective Date.** This ordinance shall be effective upon second reading and final passage by the Minot City Council.

PASSED ON FIRST READING: June 1, 2020

PASSED ON SECOND READING:

ATTEST:

APPROVED:

Kelly Matalka, City Clerk

Shaun Sipma, Mayor