

**TITLE XVIII**

**SALES AND USE TAXES**

**CHAPTERS:**

- 18.01. Sales and Use Tax – Business, Business Retention, Business Expansion, and Capital Improvements
- 18.02. Sales, Use, and Gross Receipts Tax – Infrastructure Debt and Capital Project Costs
- 18.03. Sales and Use Tax – Hillsboro Economic Development Corporation

## CHAPTER 18.01

### SALES AND USE TAX – BUSINESS, BUSINESS RETENTION, BUSINESS EXPANSION, AND CAPITAL IMPROVEMENTS

#### SECTIONS:

- 18.0101 Definitions
  - 18.0102 Sales Tax Imposed
  - 18.0103 Use Tax Imposed
  - 18.0104 Exemptions
  - 18.0105 Maximum Tax Imposed
  - 18.0106 Collection and Administration
  - 18.0107 Contract with State Tax Commissioner
  - 18.0108 Corporate Officer Liability
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#### 18.0101 Definitions

All terms defined in Chapters 57-39.2 and 57-40.2 of the North Dakota Century Code (“N.D.C.C.”), including all future amendments, are adopted by reference.

#### 18.0102 Sales Tax Imposed

1. Except as otherwise provided in this Chapter, a tax of one percent (1%) is imposed upon the gross receipt of retailers from all retail sales within the corporate limits of the City of the following:
  - a. Tangible personal property, consisting of goods, wares, or merchandise.
  - b. The furnishing or service of gas, communication services, or steam other than steam used for processing agricultural products.
  - c. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity; but not including the playing of any machine for amusement or entertainment in response to the use of a coin.
  - d. Magazines and other periodicals.
  - e. The leasing or renting of a hotel or motel room or tourist court accommodations.
  - f. The leasing or renting of tangible personal property, the transfer of title to which has not subjected to a retail sales tax under this Chapter.
  - g. Sales of alcoholic beverages and tobacco products as defined in Section 57-39.2-03.2, N.D.C.C.

#### 18.0103 Use Tax Imposed

1. Except as otherwise provided in this Chapter, an excise tax of one percent (1%) is imposed on the storage, use, or consumption in the City on:
  - a. The purchase price of tangible personal property purchased at retail for storage, use, or consumption within the City.

- b. The fair market value of tangible personal property which was not originally purchased for storage, use, or consumption in the City, at the time which it is brought into this City.
- c. Alcoholic beverages and tobacco products which are stored, used, or consumed in this City, as provided in Section 57-39.2-03.2, N.D.C.C.
- d. 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.

#### 18.0104 Exemptions

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.

#### 18.0105 Maximum Tax Imposed

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

#### 18.0106 Collection and Administration

The Tax Commissioner and the City Auditor shall have the powers enumerated in the provisions of Chapter 57-39.2, N.D.C.C, and Chapter 57-40.2, N.D.C.C., relating to the collection 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 by other State, County, and City taxes.

#### 18.0107 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 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 these duties in place of the Commissioner.

#### 18.0108 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.

#### 18.0109 Dedication of Tax Proceeds

The proceeds of any sales and use tax, less administrative costs, shall be dedicated and utilized for the development of new and existing businesses, business retention, business expansion, and capital improvements, including, but not limited to, the improvement of the swimming pool, armory, and other City buildings and City owned utilities. The proceeds collected pursuant to such tax may be used to make direct payments of cost for the above purposes or may be pledged to amortize bonds or other debt instruments which may be sold to finance such costs.

#### 18.0110 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.

## CHAPTER 18.02

### SALES, USE, AND GROSS RECEIPTS TAX – INFRASTRUCTURE DEBT AND CAPITAL PROJECT COSTS

#### SECTIONS:

- 18.0201 Definitions
  - 18.0202 Collection and Administration
  - 18.0203 Sales Tax Imposed
  - 18.0204 Use Tax Imposed
  - 18.0205 Gross Receipts of Alcoholic Beverages
  - 18.0206 Gross Receipts of New Farm Machinery and New Farm Irrigation Equipment
  - 18.0207 Exemptions
  - 18.0208 Maximum Tax Imposed
  - 18.0209 Contract with Tax Commissioner
  - 18.0210 Dedication of Tax Proceeds
  - 18.0211 Termination Date
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#### 18.0201 Definitions

All terms defined in Chapters 40-05.1, 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.

#### 18.0202 Collection and Administration

Where not in conflict with the provisions of this ordinance, the provisions of N.D.C.C. Chapters 40-05.1, 57-39.4, 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.

#### 18.0203 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 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, within the corporate limits of the City.

#### 18.0204 Use Tax Imposed

1. 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, an excise tax is imposed upon the storage, use, or consumption within the corporate limits of the City of tangible personal property purchased at retail for storage, use, or consumption in the City, at the rate of one percent (1%) 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 tangible personal property not originally purchased for storage, use, or consumption in this City at the rate of one percent (1%) of the fair market value of the property at the time it was brought into this City.

#### 18.0205 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 one percent (1%) 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 city is subject to tax on storage, use, or consumption of those alcoholic beverages at the rate of one percent (1%).

#### 18.0206 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 one percent (1%) 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 city is subject to tax on storage, use, or consumption of that machinery and/or equipment at the rate of one percent (1%).

#### 18.0207 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.

#### 18.0208 Maximum Tax Imposed

Any patron or user paying a tax imposed by this ordinance in excess of twenty five dollars (\$25.00) upon any single transaction of one 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.

#### 18.0209 Contract with Tax Commissioner

The 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.

#### 18.0210 Dedication of Tax Proceeds

1. All taxes, fees, penalties and other charges imposed and collected under this ordinance, less administrative costs, shall be dedicated to infrastructure debt repayment and capital improvement project cost of the City. Priority given to debt repayment and capital improvements shall be as follows:
  - a. First priority: Repayment of any debt that is causing a deficiency mill levy or within the next year is likely to cause a deficiency mill levy.
  - b. Second priority: The repayment of any debt that has resulted in a utility rate increase or will result in a utility rate increase.
  - c. Third priority: Any debt that is financed by special assessments; giving a first priority to a city wide assessment.
  - d. Fourth priority: Any capital project that surpasses the required amount for bidding as set by North Dakota Century Code.
  - e. Fifth priority: Capital projects for City buildings and infrastructure in amounts less than those projects for which bidding is required by the North Dakota Century Code.
2. In order to determine the amount of debt to be repaid according to the above stated priorities, the City Commission shall proceed as follows: 1) Before the 31<sup>st</sup> of August in each year, the City Auditor shall present to the City Commission a report of infrastructure debt and capital improvement debt of the City. Said report shall include but not be limited to the principal balances of each project as of January 1 of the current year; payments scheduled to be made for the current year and the estimated balances of the

debt following the current year payments; and, an estimate of the payments required to be made for the subsequent year as well as a final projected payoff date; 2) the City Commission shall, upon receipt of the report of debt from the City Auditor, review such report and further allocate toward the payment of such debt an amount which is less than or equal to the sales tax collected as a result of this ordinance as of the end of July of each year; 3) during the budget process started in September of any given year the City Commission shall determine the use of sales tax based on the above stated priority; 4) the City Commission shall follow the above stated priorities unless the City Commission determines by majority vote that there is a specific reason why the sales tax proceeds should be applied other than in the above stated priority; and, 5) if the sales tax proceeds allocated to a certain debt based on the above stated priority proved to be in excess of the amount needed to pay the debt in full, any excess shall be placed in the sales tax fund as established by Chapter 18.01.

18.0211 Termination Date

This ordinance shall terminate only if all City infrastructure debt or capital improvement debt is paid in full.

CHAPTER 18.03

SALES AND USE TAX – HILLSBORO ECONOMIC DEVELOPMENT COORPATION

SECTIONS:

- 18.0301 Definitions
  - 18.0302 Sales Tax Imposed
  - 18.0303 Use Tax Imposed
  - 18.0304 Exemptions
  - 18.0305 Maximum Tax Imposed
  - 18.0306 Collection and Administration
  - 18.0307 Contract with State Tax Commissioner
  - 18.0308 Corporate Officer Liability
  - 18.0309 Dedication of Tax Proceeds
  - 18.0310 Saving Clause
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18.0301 Definitions

All terms defined in Chapters 57-39.2 and 57-40.2 of the North Dakota Century Code (“N.D.C.C.”), including all future amendments, are adopted by reference.

18.0302 Sales Tax Imposed

1. Except as otherwise provided in this Chapter, a tax of one half of one percent (0.5%) is imposed upon the gross receipt of retailers from all retail sales within the corporate limits of the City of the following:
  - a. Tangible personal property, consisting of goods, wares, or merchandise.
  - b. The furnishing or service of gas, communication services, or steam other than steam used for processing agricultural products.
  - c. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity; but not including the playing of any machine for amusement or entertainment in response to the use of a coin.
  - d. Magazines and other periodicals.
  - e. The leasing or renting of a hotel or motel room or tourist court accommodations.
  - f. The leasing or renting of tangible personal property, the transfer of title to which has not subjected to a retail sales tax under this Chapter.
  - g. Sales of alcoholic beverages and tobacco products as defined in Section 57-39.2-03.2, N.D.C.C.

18.0303 Use Tax Imposed

1. Except as otherwise provided in this Chapter, an excise tax of one half of one percent (0.5%) is imposed on the storage, use, or consumption in the City on:
  - a. The purchase price of tangible personal property purchased at retail for storage, use, or consumption within the City.

- b. The fair market value of tangible personal property which was not originally purchased for storage, use, or consumption in the City, at the time which it is brought into this City.
- c. Alcoholic beverages and tobacco products which are stored, used, or consumed in this City, as provided in Section 57-39.2-03.2, N.D.C.C.
- d. 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.

#### 18.0304 Exemptions

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.

#### 18.0305 Maximum Tax Imposed

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

#### 18.0306 Collection and Administration

The Tax Commissioner and the City Auditor shall have the powers enumerated in the provisions of Chapter 57-39.2, N.D.C.C. and Chapter 57-40.2, N.D.C.C., relating to the collection 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 by other State, County, and City taxes.

#### 18.0307 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 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 these duties in place of the Commissioner.

#### 18.0308 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.

#### 18.0309 Dedication of Tax Proceeds

The proceeds of any sales and use tax, less administrative costs, shall be dedicated and utilized for the development of new and existing businesses, business retention, and business expansion. All funds generated from this tax shall be transferred to the Hillsboro Economic Development Corporation (HEDC) for use as above stated. The HEDC shall provide an annual report to the Hillsboro City Commission of where the dollars have been spent. At any time that the HEDC is no longer in operation the funds would be placed in a special fund within the City of Hillsboro Budget to be used for the same purposes. The proceeds collected pursuant to such tax may be used to make direct payments of cost for the above purposes or may be pledged to amortize bonds or other debt instruments which may be sold to finance such costs.

#### 18.0310 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.



