

**CITY OF MCVILLE
ORDINANCE #99 – CITY SALES AND USE TAX**

AN ORDINANCE ENACTING A CITY SALES AND USE TAX AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCVILLE; STATE OF NORTH DAKOTA

That Ordinance #99 of the City of McVile, North Dakota is hereby created and enacted to read as follows:

Section 01	Definitions
Section 02	Collections and Amendments
Section 03	Sales Tax Imposed
Section 04	Use Tax Imposed
Section 05	Gross Receipts of Alcoholic Beverages
Section 06	Gross Receipts of New Farm Machinery and New Farm Irrigation Equipment
Section 07	Exemptions
Section 08	Maximum Tax Imposed
Section 09	Refunds
Section 10	Tax Payments; Collections; Penalties
Section 11	Tax Administrator
Section 12	Dedication of Tax Proceeds
Section 13	Authority to Waive Tax
Section 14	Compensation
Section 15	Saving Clause
Section 16	Effective Date

SECTION 1. 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 and incorporated herein. All references to the N.D.C.C. include amendments adopted by the North Dakota Legislative Assembly.

SECTION 2. Collections and Amendments.

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 North Dakota State 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 of the taxes imposed by this Ordinance.

SECTION 3. 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 as provided in this section, including the leasing or renting of tangible personal property, within the corporate limits of the of the city of McVile, North Dakota, to wit:

- a. Tangible personal property, consisting of goods, wares or merchandise
- b. The furnishing of service of gas, communication services, or steam other than steam used for processing agriculture products
- c. Magazines and other periodicals
- d. Fireworks
- e. Sales of tobacco products
- f. The leasing or renting of tangible personal property, the transfer of title to which has not been subjected to a retail sales or use tax under this Ordinance
- g. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity, and including the furnishing of bingo cards and playing of any machine for amusement or entertainment in response to the use of a coin
- h. The leasing or renting of a hotel, motel, tourist court or bed and breakfast accommodation

SECTION 4. 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 of one percent (1%) is imposed upon the storage, use, or consumption within the corporate limits of the city of McVile in:

- a. The purchase price of tangible personal property purchased at retail for storage, use or consumption within the City
- b. The storage, use or consumption in this City of tangible personal property not originally purchased for storage, use or consumption within the City at the fair market value of the property at the time it was brought into the City
- c. Tobacco products which are stored, used or consumed in this City, as provided in N.D.C.C. § 57-40.2-03.2
- d. Tangible personal property used by a contractor or sub-contractor to fulfill a contract as defined in N.D.C.C. § 57-40.2-03.3. This tax applies only to bids submitted on or after the effective date of this Ordinance

SECTION 5. 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 state is subject to tax on storage, use, or consumption of those alcoholic beverages at the rate of one percent (1%).

SECTION 6. 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 state is subject to tax on storage, use, or consumption of that machinery and/or equipment at the rate of one percent (1%).

SECTION 7. Exemptions

Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided in this Ordinance, there are specifically exempted from the provisions of this Ordinance and from the computation of the amount of tax imposed by it the following:

- a. All exemptions applicable for North Dakota State Sales and Use Tax shall also be exempt from Sales or Use Tax imposed by the City of McVile, including exemptions for tax exempt entities such as but not limited to schools, counties, and state agencies
- b. 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 Ordinance
- c. Sales to contractors that are exempt, pursuant to N.D.C.C. § 57-39.2-04 (15), 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.
- d. New Farm Machinery
- e. Coin operated amusement devices

SECTION 8. Maximum Tax Imposed

No single transaction by the taxpayer from any one customer involving one or more items is subject to a tax in excess of \$50.00.

SECTION 9. Refunds

Refunds allowed by the State of North Dakota for sales and use taxes paid are also allowed by this Ordinance under the same terms and conditions provided for in the North Dakota Century Code.

SECTION 10. Tax Payments; Collections; Penalties

The tax imposed herein shall be paid and collected as nearly as practical in accordance with the payment, collection and penalty provisions of N.D.C.C. Chapters 57-39.2 and 57-40.2.

SECTION 11. Tax Administrator

The Tax Administrator shall be the City Auditor. However, the City Auditor is authorized to contract with the State Tax Commissioner to enforce this Ordinance, subject to confirmation of the contract by the City Council. If the contract is made and confirmed, the Tax Administrator shall be the State Tax Commissioner as long as the contract remains in force. In the absence of a valid contract with the Commissioner or failure of the Commissioner to perform the delegated duties, the City Auditor shall perform such duties.

SECTION 12. Dedication of Tax Proceeds

All revenues raised and collected under this Ordinance, less administrative expenses, shall be dedicated to economic development of health care for the City of McVille to be used to meet the growing needs and promotion of the same, including, but not limited to, funding the proposed Assisted Living Project. All revenues shall be placed in a separate sales and use tax fund.

SECTION 13. Authority to Waive Tax

Pursuant to N.D.C.C. § 57-01-02(14), or any amendments thereto, only the North Dakota State Tax Commissioner may, upon a showing of good cause, waive any and all tax due.

SECTION 14. Compensation

City Sales and Use Tax Permit Holders shall not be compensated for collecting and paying the sales tax.

SECTION 15. 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 16. Effective Date

This Ordinance shall be in full force and effect following its final passage, adoption and publication. The tax shall be implemented and take effect on July 1, 2010, contingent upon the City procuring adequate funding for the proposed Assisted Living Project. If adequate funding is not available at that time, the tax shall be implemented and take effect the first tax quarter after adequate funding for the proposed Assisted Living Project has been obtained.

First Reading: February 8, 2010

Second Reading: March 8, 2010

Final Passage & adoption: _____

Robert Stanley, Mayor

ATTEST:

Renaë Arneson, City Auditor