
SUBJECT: ORDINANCE #2010-2 AMENDED (FLOOD CONTROL SALES TAX)

ADOPTED DATE: DECEMBER 19, 2016

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AMENDED ORDINANCE NO. #2010-2

AN ORDINANCE TO ESTABLISH AND REGULATE A COUNTY SALES
TAX UNDER THE HOME RULE CHARTER OF THE COUNTY OF CASS.

BE IT ORDAINED BY THE COUNTY COMMISSION OF THE COUNTY OF CASS,
CASS COUNTY, NORTH DAKOTA:

SALES TAX

Definitions.

All terms defined in chapters 11-09.1, 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.

Collection and Administration.

Where not in conflict with the provisions of this Ordinance, the provisions of N.D.C.C. chapters 11-09.1, 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. § 11-09.1-05, 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 half of one 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 county of Cass, North Dakota.

Use Tax Imposed.

Subject to the provisions of N.D.C.C. § 11-09.1-05, 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 county of

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Cass County, North Dakota of tangible personal property purchased at retail for storage, use, or consumption in this county, at the rate of one half of one 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 county of Cass, North Dakota of tangible personal property not originally purchased for storage, use, or consumption in this county at the rate of one half of one percent of the fair market value of the property at the time it was brought into this county.

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. § 11-09.1-05, and except as otherwise provided in this Ordinance, a gross receipts tax of one half of one percent is imposed upon all gross receipts from the sale of alcoholic beverages within the county. 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 half of one percent.

Gross Receipts of New Farm Machinery and New Farm Irrigation Equipment.

Subject to the provisions of N.D.C.C. § 11-09.1-05, and except as otherwise provided in this Ordinance, a gross receipts tax of one half of one percent is imposed upon all gross receipts from the sale of new farm machinery and new farm irrigation equipment within the county. 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 half of one percent.

Exemptions.

This Ordinance does not provide for any additional exemptions from imposition and computation of the county sales tax other than those provided by state law.

Maximum Tax Imposed.

Any patron or user paying a tax imposed by this Ordinance in excess of twelve dollars and fifty cents upon any single transaction of one or more items may obtain a refund of the excess tax payment by filing a request for refund upon the forms provided by the Tax Commissioner.

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Contract with Tax Commissioner.

The Cass County Auditor is hereby authorized to contract with the Tax Commissioner for administration and collection of taxes imposed by this Ordinance. The County 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.

1. The proceeds of the sales, use, and gross receipts taxes, which are imposed pursuant to the Cass County Home Rule Charter, shall be solely utilized for the purposes outlined in Resolution No. 2016-20. The proceeds may be used for the engineering, land purchase, construction, and maintenance of a Red River Diversion and other flood control measures or the payment of special assessments or debt incurred for a Red River Diversion and other flood control measures as authorized by the Cass County Commission.
2. Until expenditures are made pursuant to Resolution No. 2016-20, the tax receipts shall be placed and segregated in a separate fund maintained by Cass County Government. The fund balance of the fund shall be invested as part of the pool of county investments and the prorata share of interest credited to the tax fund. The interest earned off the tax shall be used for the same purposes as the tax funds under Resolution No. 2016-20. In the event that expenditures of the tax funds generate income or other gains, the cash proceeds of such income or other gains shall be deposited in the tax fund and shall be used for the purposes outlined in Resolution No. 2016-20.
3. The funds in the Sales Tax Flood Fund in excess of what is needed to match the City of Fargo for the diversion project will be governed by Commission Policy No. 13.72 as passed by the County Commission on August 2, 2010, which includes the following:

County sales tax funds expended within incorporated cities: The County Commission may consider requests for flood risk reduction and recovery funding from cities within Cass County. The city will be responsible for planning and engineering costs associated with the project. Plans and specifications should be prepared by a professional engineer registered within the State of North Dakota. The city should also be able to demonstrate that other revenue sources for the project have been actively sought out. The preferred funding split is that City funds match the County sales tax proceeds on a 1:1 basis. Other funding splits may be considered by the Commission on a case by case basis to allow consideration to be given to unique circumstances and the ability of the City to pay 50% of the local cost share.

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County sales tax funds expended outside of incorporated cities: The County Commission may also consider flood risk reduction and recovery projects recommended by the County Engineer or requested by townships, neighborhood groups, or individuals for areas within and outside of the diversion perimeter. Special assessments may be considered as a local match to County sales tax funds. Funds may be expended for projects that provide benefit to Cass County residents but are physically constructed outside of the County boundaries such as retention projects. Funds may also be spent to assist property owners downstream from the diversion channel in offsetting diversion project impacts.

Effective Date.

This Ordinance shall take effect after its passage, approval, and publication, but not prior to January 1, 2017.

Termination Date.

The sales, use, and gross receipts tax shall run through December 31, 2084 and shall be rescinded when all of the costs, obligations and debt for said project have been paid in full and satisfied, whichever event occurs first as provided in Resolution No. 2016-20.

APPROVED:

ss/Chad M. Peterson
Chad M. Peterson, Chairman
Board of Commissioners
Cass County, North Dakota

ATTEST:

ss/Michael Montplaisir
Michael Montplaisir, County Auditor

(SEAL)

First Reading: November 21, 2016
Publication: November 28, 2016
Second Reading: December 19, 2016
Final Passage: December 19, 2016

HISTORICAL REFERENCE DATE: DECEMBER 20, 2010