

**ORDINANCE NO. 952**

At an election held March 13, 2018, the voters of the City of Devils Lake did approve amending the Charter of the City of Devils Lake to authorize the Devils Lake City Commission to increase the sales tax in the City of Devils Lake by .25 percent. As a result of the approval of this ballot, the following is hereby enacted by the City of Devils Lake:

AN ORDINANCE TO ESTABLISH AND REGULATE A CITY SALES, USE, AND GROSS RECEIPTS TAX UNDER THE HOME RULE CHARTER OF THE CITY OF DEVILS LAKE WHICH WILL REPEAL ORDINANCE 874 WHICH HAS BEEN CODIFIED AS CHAPTER 3.08 OF THE DEVILS LAKE MUNICIPAL CODE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DEVILS LAKE, NORTH DAKOTA, PURSUANT TO ITS HOME RULE CHARTER AS FOLLOWS:

**SALES, USE, AND GROSS RECEIPTS TAX**

**3.08.010      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.

**3.08.020      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.

**3.08.030      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 2.25 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 Devils Lake, North Dakota.

**3.08.040**      **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 Devils Lake, North Dakota, of tangible personal property purchased at retail for storage, use, or consumption in this city, at the rate of 2.25 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 Devils Lake, North Dakota, of tangible personal property not originally purchased for storage, use, or consumption in this city at the rate of 2.25 percent of the fair market value of the property at the time it was brought into this city.

**3.08.050**      **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 2.25 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 2.25 percent.

**3.08.060**      **Exemptions.**

In addition to the exemptions provided by state law, this Ordinance provides exemptions from imposition and computation of the city sales or use tax for sales of the following:

- a.      Sales of natural gas.
- b.      Gross receipts from coin-operated amusement devices.
- c.      New farm machinery.
- d.      New farm irrigation equipment.

**3.08.070**      **Contractors.**

Sales to contractors that are exempt pursuant to subsection 15 of N.D.C.C. § 57-39.2-04 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.

**3.08.080**      **Maximum Tax Imposed.**

Any patron or user paying a tax imposed by this Ordinance in excess of \$25 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.

**3.08.090**      **Contract with Tax Commissioner.**

The Devils Lake 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.

**3.08.100**      **Dedication of Tax Proceeds.**

The proceeds from the tax imposed by this Ordinance are hereby dedicated as follows:

- a. Debt reduction for sewage treatment system, property tax relief, infrastructure improvements, economic development, and debt reserve shall receive 45 percent of the tax.
- b. Financing of the construction of Flood Protection District No. 1-96 (dike system) shall receive 22 percent of the tax. When the debt to finance the City's share of the construction of Flood Protection District No. 1-96 (dike system) has been retired, this 22 percent of the tax shall be extended and will be designated by the City Commission for the following purposes: funding for water treatment, water source, storm water, infrastructure improvement, community development, library, and other public facilities.
- c. Infrastructure improvements shall receive 33 percent of the tax.

**3.08.110**      **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 3.00 percent of the city tax due; however, the deduction is limited to 83.33 per month or 250 per quarter. 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.

**3.08.120      Effective Date.**

This Ordinance shall take effect after its passage, approval, and publication, but not prior to July1, 2018.

Passed First Reading: \_\_\_\_\_

Passed Second Reading: \_\_\_\_\_

Final Passage and Adoption: \_\_\_\_\_

**CITY OF DEVILS LAKE**

By: \_\_\_\_\_  
Richard Johnson, President  
Devils Lake City Commission

ATTEST:

\_\_\_\_\_  
Linda Lybeck  
City Auditor