

CHAPTER SEVENTEEN – CITY SALES TAX

ARTICLE 1 City Sales Tax

CHAPTER SEVENTEEN

CITY SALES TAX

ARTICLE 1 – City Sales Tax

**17.0101 Definitions**

All terms defined in Sections 57-39.2 and 57-04.2 of the North Dakota Century Code, including any future amendments, are adopted by reference. All references to the North Dakota Century Code include amendments adopted by the legislature of the State of North Dakota.

**17.0102 Sales Tax Imposed**

Except as otherwise provided in this Chapter, a tax of two (2%) is imposed upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as provided in this Section, within the corporate limit of the City of New England, North Dakota. Such sales tax shall parallel the State of North Dakota Sales and Use Tax law. All of the exemptions applicable for state sales and use tax apply to the New England sales and use tax, including exemptions for tax exempt entities (schools, counties, state agencies, etc.). Such sales tax shall be applied to the following:

1. Tangible personal property, consisting of goods, wares, or merchandise.
2. The furnishing of service of communications services or steam other than steam used for processing agricultural products.
3. 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 the playing of any machine for amusement, or entertainment in response to the use of a coin. The tax imposed by this Section applies only to eighty percent (80%) of the gross receipts collected from coin-operated amusement devices.
4. Magazines and other periodicals.
5. The leasing or renting of a hotel or motel room or tourist court of accommodations.
6. The leasing or renting of tangible personal property, the transfer of title to which has not been subject to tax under this Chapter or a use tax under Section 57-40-2-03.3 of the North Dakota Century Code.

**17.0103 Use Tax Imposed**

Except as otherwise provided in this Chapter, an excise tax of two percent (2%) is imposed on the storage, use, or consumption in the City of New England on:

1. The purchase price of tangible personal property purchased at retail for storage, use, or consumption within the city.
2. The fair market value, at the time it brought into the city, of tangible personal property not originally purchased for storage, use, or consumption in the city, at the time it is brought into the City of New England,
3. Alcoholic beverages and tobacco products as defined Section 57-39.2-03.2 of the North Dakota Century Code.
4. Tangible personal property used by a contractor or subcontractor to fulfill a contract as defined in Section 57-40.2-03.3 of the North Dakota Century Code.

#### **17.0104 Exemptions**

All sales, storage, use, or consumption of tangible personal property which are exempt from imposition and consumption of the sales or use tax of the State of North Dakota are specifically exempt from the provisions of this ordinance.

#### **17.0105 Maximum Tax Imposed**

The amount of the sales and use tax shall not exceed two percent (2%) of the gross receipts, nor shall the tax exceed one hundred dollars (\$100) on any single purchase or sales transaction involving one or more items.

#### **17.0106 City Auditor Empowered To 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 ordinance. The City Auditor has all the powers granted the commission and in the absence of a valid contract with the commissioner or failure of the commissioner to perform the delegated duties, shall perform those duties in the place of the commissioner.

#### **17.0107 Collection and Administration**

The tax commissioner and the City Auditor shall have the powers enumerated in the provisions of Sections 57-39.2 and 57-40.2 of the North Dakota Century Code relating to the collections 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 with other state, county, and city taxes.

#### **17.0108 Corporate Officer Liability/LLC Governor, Manager or Member Liability**

1. If a corporation required to remit taxes imposed by this Chapter fails for any reason to file the required returns or to pay the tax due, the president, vice-president, secretary, or treasurer of the corporation, or governor or manager of the limited liability company, jointly or severally, having control, or supervision of, or charged with the responsibility for making the returns and payments are personally liable for the failure. The dissolution of a corporation or a limited liability company shall not discharge an officer's, or governor's, or manager's liability for a prior failure of the corporation or limited liability company to make a return or remit the tax due. The sum due for the liability may be assessed and collected pursuant to the provisions of this ordinance for the assessment and collection of other liabilities.
  
2. If the corporate officers, or the governors, or the managers, elect not to be personally liable for the failure to file the required returns or to pay the tax due, the corporation or limited liability must be required to make a cash deposit or post with the North Dakota Tax Commissioner. A bond or undertaking executed by a surety company authorized to do business in this Section must be in the amount equal to the estimated annual sales tax liability of the corporation or limited liability company.

#### **17.0109**

#### **Dedication of Tax Proceeds by City Council**

The two percent (2%) tax proceeds shall be dedicated as follows:

1. One percent (1%) of revenue raised and collected under this ordinance shall be maintained in a fund separate and apart from other funds and shall be used for the betterment of the City of New England as approved by the governing body of the City of New England upon the recommendations of the Sales Tax Advisory Board, a committee of no less than five (5) persons appointed by the governing body of the City of New England. The members of said Board shall be residents of the City of New England, shall serve without reimbursement, shall be appointed for a five (5) year term, and no City Council members shall serve on the New England Sales Tax Advisory Board. A Quorum of said Board shall be sixty percent (60%) of its members and recommendations from said Board shall be made upon a majority vote.
  
2. The remaining one percent (1%) of the revenue raised and collected under this ordinance shall be maintained in a fund separate and apart from other funds and shall be used for street, water, and sewer improvements and maintenance.