

ORDINANCE NO. 2017-06

**AN ORDINANCE ADOPTING A ONE-HALF PERCENT SALES AND USE TAX
FOR THE CITY OF FAIRMONT, MINNESOTA**

The Fairmont City Council hereby ordains:

SECTION 1. AUTHORITY.

The Minnesota Legislature has, by Laws of Minnesota 2017, 1st Special Session, Chapter 1, Article 5, Section 19, authorized the City of Fairmont to impose a one-half percent sales and use tax to pay the costs of collecting and administering the tax and to finance the capital and administrative costs of the projects identified in Section 4 of this Ordinance. The Act was approved by the City in accordance with applicable law, and by a majority of the voters at the November 8, 2016 general election.

SECTION 2. DEFINITIONS.

The words, terms, and phrases used in this Ordinance shall have the meaning ascribed to them in Minnesota Statutes Section 297A, except where the context clearly indicates otherwise. In addition, the following definitions shall apply:

- a. Act means Laws of Minnesota 2017, 1st Special Session, Chapter 1, Article 5, Section 19;
- b. City means the City of Fairmont;
- c. Commissioner means the Commissioner of Revenue for the State of Minnesota acting under the authority of an agreement entered into between the City and the State of Minnesota pursuant to the Act, or such other person or entity designated to administer and collect the Fairmont Sales and Use Tax;
- d. Fairmont Sales and Use Tax means the sales and use tax imposed and collected pursuant to this Ordinance;
- e. Ordinance means this ordinance in its present form and as subsequently codified in the Fairmont City Code;
- f. Retailer maintaining a place of business in the City or any like term shall mean any retailer having or maintaining within the City, directly or by a subsidiary, an office, place of distribution, sales or sample room or place, warehouse, or other place of business, or having any representative, agent, sales person, canvasser or solicitor operating in the City under authority of the Retailer or its subsidiary, for

any purpose, including the repairing, selling, delivering, installation, or soliciting an order of the Retailer's goods or services, or the leasing of tangible personal property located in the City, whether the place of business or agent, representative, sales person, canvasser, or solicitor is located in the City permanently or temporarily, or whether the Retailer or subsidiary is authorized to do business within the City.

SECTION 3. SALES AND USE TAX.

Except as otherwise provided in this Ordinance, there is hereby imposed an additional excise tax in the amount of one-half of one percent on the gross receipts from the sales at retail, and the storage, use, distribution, or consumption of goods or services which are taxable pursuant to Minnesota Statutes Chapter 297A and occur within the City. The imposition, administration, collection, and enforcement of this tax shall be governed by the provisions of Minnesota Statutes Chapter 297A, 289A and 270C.

SECTION 4. PROCEEDS.

The proceeds of the Fairmont Sales and Use Tax shall be used in the discretion of the City Council for the projects approved by the voters at the November 8, 2016 general election. The approved projects are:

- a. Constructing and funding Recreational Amenities;
- b. Constructing and funding a Trail System; and
- c. Constructing and funding a Community Center.

All funds not used to pay collection and administrative costs of the Fairmont Sales and Use Tax must be used for the projects listed in Section 4 of this Ordinance.

SECTION 5. BONDING AUTHORITY

In accordance with the authority provided by the Act, the City may issue bonds under Minnesota Statutes, chapter 475, to finance all or a portion of the costs of the facilities authorized by the Act and identified in Section 4 of this Ordinance. The aggregate principal amount of bonds issued under this Section 5 may not exceed \$15,000,000.00 (fifteen million dollars), plus an amount to be applied to the payment of the costs of issuing the bonds. The bonds may be paid from or secured by any funds available to the City, including the Fairmont Sales and Use Tax authorized by the Act and this Ordinance. The issuance of bonds under this Section 5 is not subject to Minnesota Statutes, sections 275.60 and 275.61.

The bonds are not included in computing any debt limitation applicable to the City, and any levy of taxes under Minnesota Statutes, section 475.61, to pay principal and interest on the bonds is

not subject to any levy limitation. A separate election to approve the bonds under Minnesota Statutes, section 475.58, is not required.

**SECTION 6. SEPARATE STATEMENT; COLLECTION FROM PURCHASER;
ADVERTISING NO TAX; MINIMUM UNIFORM TAX
COLLECTION METHODS.**

The Fairmont Sales and Use Tax shall be stated and charged separately from the sales price or charge for service insofar as practical, and should be a debt from the purchaser to the seller recoverable at law in the same manner as other debts. In computing the tax to be collected as a result of any transaction, any amount of tax less than one-half of one cent may be disregarded and amounts of tax one-half cent or more may be considered an additional cent. If the sales price of any sale at Retail is ninety-nine cents or less, no tax shall be collected.

SECTION 7. EXEMPTION CERTIFICATES.

An exemption certificate taken in good faith from a purchaser to the effect that the property purchased is for resale or that the sale is otherwise exempt from application of the Fairmont Sales and Use Tax will conclusively relieve the Retailer from collecting and remitting the tax. A person who has obtained from the Commissioner an exemption certificate pursuant to Minnesota Statutes Chapter 297A may use such exemption certificate for the purposes of the Fairmont Sales and Use Tax.

SECTION 8. PRESUMPTION OF PURPOSE OF SALE.

For the purpose of the proper administration and enforcement of Section 3 of this Ordinance, it shall be presumed that all retail sales for delivery in the City are for storage, use, or other consumption in the City until the contrary is established.

SECTION 9. COLLECTION OF SALES AND USE TAX AT THE TIME OF SALE.

Any Retailer making deliveries within the City, any Retailer maintaining a place of business in the City, or any other Retailer otherwise doing business within the City, upon making sales of any items described in Section 3 of this Ordinance which are not exempted from the Sales and Use tax and which are to be delivered or caused to be delivered within the City to the purchaser, shall at the time of making such sales, collect the Fairmont Sales and Use Tax from the purchaser. The tax collected by such retailer shall be remitted to the Commissioner on behalf of the City.

Any Retailer required to collect the Fairmont Sales and Use Tax and remit such tax to the Commissioner pursuant to this Section shall register with the Commissioner and provide such other information as the Commissioner may require.

SECTION 10. AGENT RETAILER.

When, in the opinion of the Commissioner, it is necessary for the efficient administration of the Fairmont Sales and Use Tax, the Commissioner may regard any salesman, representative, trucker, peddler, or canvasser as the agent of the dealer, distributor, supervisor, employer or other person under whom such salesman, representative, trucker, peddler or canvasser operated or from whom the tangible property is being sold is obtained, and may regard the dealer, distributor, supervisor, employer or other person as a Retailer for the purposes of this Ordinance.

SECTION 11. EFFECTIVE DATE.

Except as otherwise provided herein, the Fairmont Sales and Use Tax authorized by this Ordinance shall apply to sales made on or after October 1, 2017, and shall be in addition to all other taxes now in effect. The sales and use tax imposed by this ordinance shall expire at the earlier of:

- a. twenty-five years after the Fairmont Sales and Use Tax is first imposed;
- b. December 31, 2042;
- c. when the Fairmont City Council determines that \$15,000,000, (fifteen million) plus an amount sufficient to pay the costs related to issuing the bonds authorized by the Act and this Ordinance, including interest on the bonds, has been received from the sales and use tax to pay for the cost of the projects identified in Section 4 of this Ordinance; or
- d. at such earlier time the City determines by ordinance.

SECTION 11. COLLECTION AND ENFORCEMENT.

The Fairmont Sales and Use Tax imposed by the City pursuant to this Ordinance shall be subject to the same interests, penalties, and other rules as are applicable to the State general sales and use tax imposed by Minnesota Statutes Chapters 289A and 297A. The Fairmont Sales and Use Tax imposed by the City pursuant to this Ordinance may be collected by the State on behalf of the City as provided by an appropriate agreement with the Minnesota Commissioner of Revenue.

SECTION 12. TAX CLEARANCE ISSUANCE OF LICENSE.

The City may not issue or renew a license for the conduct of a trade or business in the City if the Commissioner notifies the City that the applicant for such license owes delinquent Fairmont Sales and Use Taxes as provided in this Ordinance, or penalties or interest due on such taxes. For the purposes of this Section 12, the following terms have the following meanings:

- a. Fairmont Sales and Use Taxes include the one-half cent sales and use tax as provided in this Ordinance. Penalties and interest are penalties and interest due on taxes included in this definition.
- b. Delinquent taxes do not include a tax liability if:
 - i. There is a pending or ongoing administrative or court action in which the amount of, or validity of a tax liability is contested;
 - ii. The appeal period to contest tax liability has not expired; or
 - iii. The applicant has entered into a payment agreement and is current with the payments.
- c. Applicant means an individual if the license is issued to or in the name of an individual or the corporation, partnership, or other entity if the license is issued to or in the name of a corporation, partnership, or other entity.

A copy of the notice of delinquent taxes given to the City shall also be sent to the applicant taxpayer. In the case of renewal of a license, if the applicant requests a hearing in writing within thirty (30) days of the receipt of the notice of delinquent taxes, then a contested case hearing shall be held by the Commissioner under the same procedures as provided in Minnesota Statutes Section 270.72 for the State sales and use tax imposed under Minnesota Statutes Chapter 297A, provided that, if a hearing must be held on the State sales and use tax, the hearings may be combined.

Motion by:
 Seconded by:
 All in favor:
 Opposed:
 Abstained:

Adopted this 26th day of June, 2017.

ATTEST:

 Deborah J. Foster, Mayor

 Patricia J. Monsen
 City Clerk

1st Reading: June 20, 2017
 2nd Reading: June 26, 2017