

ORDINANCE NO. 2019-16

AN ORDINANCE TO DELETE AND REPLACE IN ITS ENTIRETY ORDINANCE NO. 2017-06, ADOPTING A ONE-HALF PERCENT SALES AND USE TAX FOR THE CITY OF FAIRMONT, MINNESOTA

WHEREAS, 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 for the City of Fairmont; and,

WHEREAS, the one-half percent sales and use tax was approved by the City in accordance with applicable law, and by a majority of the voters at the November 8, 2016 general election; and,

WHEREAS, the Fairmont City Council adopted Ordinance No. 2017-06 authorizing the adoption of a one-half percent sales and use tax for the City of Fairmont on June 26, 2017; and,

WHEREAS, the Minnesota Department of Revenue has requested cities who have a sales and use tax ordinance currently in place to update their sales and use tax ordinance to aid the Department of Revenue in more effectively collecting the taxes generated by the sales and use tax.

NOW THEREFORE THE CITY OF FAIRMONT DOES ORDAIN, that City of Fairmont Ordinance No. 2017-06 be deleted in its entirety and replaced as follows:

Section 1.

LOCAL SALES AND USE TAX

Section 1. Authority. Pursuant to Laws of Minnesota 2017, 1st Special Session, Chapter 1, Article 5, Section 19, the Minnesota Legislature has authorized the City of Fairmont to impose a local sales and use tax to provide revenues to pay the costs of collecting and administering the tax to the commissioner of revenue of the state of Minnesota and to finance the capital and administrative costs related to the funding of designated projects as defined in Laws of Minnesota 2017, 1st Special Session, Chapter 1, Article 5, Section 19, Subdivision 2, and approved by a majority of the voters at the November 8, 2016 general election.

Section 2. Definitions. For purposes of this chapter, the following words, terms, and phrases have the meanings given them in this section unless the language or context clearly indicates a different meaning is intended.

(a) **City.** “City” means the City of Fairmont, Minnesota.

(b) **Commissioner.** “Commissioner” means the commissioner of revenue of the state of Minnesota or a person to whom the commissioner has delegated functions.

(c) **Designated projects.** “Designated projects” means the constructing and funding of recreational amenities, a trail system, and a community center, as authorized by the Minnesota Legislature in Laws of Minnesota 2017, 1st Special Session, Chapter 1, Article 5, Section 19, Subdivision 2 and approved by the voters at the November 8, 2016 general election.

(d) **State sales and use tax laws and rules.** “State sales and use tax laws and rules” means those provisions of the state revenue laws applicable to state sales and use tax imposition, administration, collection, and enforcement, including Minnesota Statutes, chapters 270C, 289A, 297A, and Minnesota Rules, chapter 8130, as amended from time to time.

Section 3. Local sales and use tax imposed; amount of tax; coordination with state sales and use tax laws and rules. A local sales tax is imposed in the amount of one-half percent on the gross receipts from sales at retail sourced within city limits which are taxable under the state sales and use tax laws and rules. A local use tax is imposed in the amount of one-half percent on the storage, use, distribution or consumption of goods or services sourced within city limits which are taxable under the state sales and use tax laws and rules. All of the provisions of the state sales and use tax laws and rules apply to the local sales and use tax imposed by this chapter. The local sales and use tax imposed by this chapter shall be collected and remitted to the commissioner on any sale or purchase when the state sales tax must be collected and remitted to the commissioner under the state sales and use tax laws and rules and is in addition to the state sales and use tax.

Section 4. Effective date of tax; transitional sales. Except as otherwise provided herein, the local sales and use tax imposed by this chapter shall apply to sales and purchases made on or after October 1, 2019. The local sales and use tax imposed by this chapter shall not apply to:

(a) The gross receipts from retail sales or leases of tangible personal property made pursuant to a bona fide written contract, which unconditionally vests the rights and obligations of the parties thereto, provided that such contract was enforceable prior to October 1, 2019, and that delivery of the tangible personal property subject thereto is made on or before October 1, 2019.

(b) The gross receipts from retail sales made pursuant to a bona fide lump sum or fixed price construction contract, which unconditionally vests the rights and obligations of the parties thereto and which does not make provision or allocation of future taxes, provided that such contract was enforceable prior to October 1, 2019, and that delivery of the tangible personal property used in performing such construction contract is made before April 1, 2020.

(c) The purchase of taxable services, including utility services, if the billing period includes charges for services furnished before and after October 1, 2019, but the local sales and

use tax imposed by this chapter shall apply on the first billing period not including charges for services furnished before October 1, 2019.

(d) Lease payments for tangible personal property and motor vehicles that includes a period before and after October 1, 2019, but the local sales and use tax imposed by this chapter shall apply on a prorated basis to lease payment amounts attributable to that portion of the lease payment period on or after October 1, 2019 and on the entire lease payment for all lease payment periods thereafter.

Section 5. Tax Clearance; Issuance of Licenses.

(a) The city may not issue or renew a license for the conduct of a trade or business within the city if the commissioner notified the licensing division of the city that the applicant owes delinquent city taxes as provided in this chapter, or penalties or interest due on such taxes.

(1) City taxes include sales and use taxes provided in this article. Penalties and interest are penalties and interest due on taxes included in this definition.

(b) Delinquent taxes does not include a tax liability if: (i) an administrative or court action which contests the amount or validity of the liability has been filed or served, (ii) the appeal period to contest the 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 or partnership if the license is issued to or in the name of a corporation or partnership.

(1) A copy of the notice of delinquent taxes given to the licensing division of the city shall also be sent to the applicant taxpayer. In the case of renewal of a license, if the applicant requests in writing, within 30 days of receipt of the notice of hearing, then, a contested hearing shall be held under the same procedures as provided in Minn. Stat. 270A for the state sales and use tax imposed under Minn. Stat. 297A; provided further that if a hearing must be held on the state sales and use tax, hearings must be combined.

Section 6. Deposit of revenues; costs of administration; termination of tax.

(a) All of the revenues, interest, and penalties derived from the local sales and use tax imposed by this chapter collected by the commissioner and remitted to the city shall be deposited by the city finance director in the city treasury and shall be credited to the fund established to pay the costs of collecting the local sales and use tax imposed by this chapter and to finance the capital and administrative costs directly related to completing the designated projects.

(b) The local sales and use tax imposed by this chapter shall terminate at the earlier of: (1) twenty-five (25) years after the Fairmont Sales and Use Tax is first imposed; or (2) when the City Council determines that fifteen million dollars (\$15,000,000.00), plus an amount sufficient to pay the costs related to issuing bonds and interest on the bonds has been received from the local sales and use tax imposed by this chapter to pay for all the capital and administrative costs directly related to completing the designated projects. Any funds remaining after payment of all such costs and retirement or redemption of the bonds shall be placed in the general fund of the city. The local sales and use tax imposed by this chapter may terminate at an earlier time if the City Council so determines by ordinance.

Section 7. Agreement with the commissioner. The city may enter into an agreement with the commissioner regarding each party's respective roles and responsibilities related to the imposition, administration, collection, enforcement, and termination of the local sales and use tax imposed by this chapter. Any such agreement shall not abrogate, alter, or otherwise conflict with the state sales and use tax laws and rules, this ordinance, or Laws of Minnesota 2017, 1st Special Session, Chapter 1, Article 5, Section 19.

Section 8. Summary publication. The following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance pursuant to Minnesota Statutes section 412.191:

Pursuant to a voter-approved referendum, the city is authorized to and will impose a local sales and use tax of one-half percent on retail sales made after October 1, 2019 to be used to fund certain designated projects related to the constructing and funding of recreational amenities, a trail system, and a community center.

Section 9. This Ordinance shall be in full force and effect from and after its passage and publication.

PASSED, APPROVED AND ADOPTED this 14th day of October 2019.

Motion by:
Seconded by:
All in Favor:
Opposed:
Abstained:
Absent:

Deborah J. Foster, Mayor

ATTES:

Patricia J. Monsen, City Clerk