

ORDINANCE NO. 20, 4th SERIES

AN ORDINANCE OF THE CITY OF EAST GRAND FORKS, MINNESOTA, AMENDING CITY CODE CHAPTER 33 ENTITLED "FINANCE AND TAXATION" BY ADDING SECTION 33.03 to 33.14 AND BY ADOPTING BY REFERENCE CITY CODE CHAPTER 1 AND SECTION 10.99 WHICH, AMONG OTHER THINGS, CONTAIN PENALTY PROVISIONS.

THE CITY OF EAST GRAND FORKS ORDAINS:

Section 1. That Chapter 33 entitled Finance and Taxation shall have the following additions:

SALES AND USE TAX

§ 33.03 AUTHORITY.

(A) The Minnesota Legislature has, by Laws of Minnesota 2017 First Special Session, Chapter 1, Section 18. City of East Grand Forks; Taxers Authorized (the "ACT") the city to impose a 1.0% sales and use tax to finance the capital and administrative costs of improvement to the city swimming pool. The city approved the Act in accordance with applicable law.

(B) At the special election held March 7, 2016, the voters approved the imposition of a 1.0% sales and use tax for the exclusive purpose of paying costs of collecting and administering the tax and to finance the capital and administrative costs of improvement to the city public swimming pool. Authorized expenses include, but are not limited to, paying construction expenses related to the renovation and the development of these facilities and improvements, and securing and paying debt service on bonds issued or other obligations issued to finance improvement of the public swimming pool in the city of East Grand Forks.

(C) The city of East Grand Forks may issue bonds under Minnesota Statutes, chapter 475, to finance all or a portion of the costs of the facilities authorized. The aggregate principal amount of bonds issued under this subdivision may not exceed \$2,820,000, 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 of East Grand Forks, including the tax.

(D) The tax imposed expires at the later of: (1) five years after the tax is first imposed; or (2) when the city council determines that \$2,820,000 has been received from the tax to pay for the cost of the projects authorized, plus an amount sufficient to pay the costs related to issuance of the bonds authorized, including interest on the bonds. 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 tax imposed may expire at an earlier time if the city so determines by ordinance.

§ 33.04 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT. The Minnesota Legislature has, by Laws of Minnesota 2017 First Special Session, Chapter 1, Section 18. City of East Grand Forks; Taxers Authorized

CITY. The City of East Grand Forks.

COMMISSIONER. The Commissioner of Revenue for the state acting under the authority of an agreement entered into between the city and the state pursuant to the Act, or such other person or entity designated to administer and collect the East Grand Forks Tax.

ORDINANCE. The ordinance codified in this subchapter in its present form and as subsequently codified in the East Grand Forks City Code.

RETAILER MAINTAINING A PLACE OF BUSINESS IN THE CITY (or any like term). Any retailer having or maintaining within the city, directly or by a subsidiary or an affiliate, an office, place of distribution, sales or sample room or place, warehouse or other place of business, or having any representative, including an affiliate, agent, sales person, canvasser or solicitor operating in the city under the authority of the retailer or its subsidiary, for any purpose, including the repairing, selling, delivering, installation, or soliciting of 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, affiliate, sales person, canvasser, or solicitor, is located in the city permanently or temporarily, or whether or not the retailer or subsidiary is authorized to do business within the city.

EAST GRAND FORKS SALES AND USE TAX. The sales and use tax imposed and collected pursuant to the ordinance codified herein.

§ 33.05 SALES AND USE TAX.

Except as otherwise provided in this subchapter, there is hereby imposed an additional excise tax in the amount of 1.0% of the gross receipts from the sales at retail, and the storage, use, distribution or consumption of goods or services which are taxable, pursuant to M.S. Chapter 297A and occur within the City of East Grand Forks, MN. The imposition, administration, collection and enforcement of this tax shall be governed by the provisions of M.S. Chapters 297A, 270C, and 289A.

§ 33.06 SEPARATE STATEMENT; COLLECTION FROM PURCHASER; ADVERTISING NO TAX; MINIMUM UNIFORM TAX COLLECTION METHODS.

The 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 \$.005 may be disregarded and amounts of tax \$.005 or more may be considered an additional \$.01. If the sales price of any sale at retail is \$0.99 or less, no tax shall be collected.

§ 33.07 EXEMPTION CERTIFICATES.

A fully completed exemption certificate taken from a purchaser to the effect that the property purchased is for resale or that the sale is otherwise exempt from the application of the tax imposed by this subchapter will conclusively relieve the retailer from collecting and remitting the tax. A person who has obtained from the Commissioner an exemption certificate pursuant to the M.S. Chapter 297A may use such exemption certificate for the purposes of the sales tax imposed by the city.

§ 33.08 PRESUMPTION OF PURPOSE OF SALE.

For the purpose of the proper administration and enforcement of § 33.05, 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.

§ 33.09 COLLECTION OF SALES AND USE TAX AT TIME OF SALE.

(A) 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 or any items described in § 33.05 which are not exempted from the sales tax imposed under that section 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 and collect the sales and use tax from the purchaser. The tax collected by such retailer shall be remitted to the Commissioner on behalf of the city.

(B) Any retailer required to collect the sales and use tax and remit the tax to the Commissioner pursuant to this section shall register with the Commissioner and provide such other information as the Commissioner may require.

§ 33.10 AGENT OF RETAILER.

When in the opinion of the Commissioner it is necessary for the efficient administration of the 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 subchapter.

§ 33.11 EFFECTIVE DATE, TRANSITIONAL SALES.

(A) Except as otherwise provided herein, the sales and use tax authorized by this subchapter shall apply to sales made on or after January 1, 2018 and shall be in addition to all other taxes now in effect.

(B) The sales and use tax shall not apply to the following:

(1) The gross receipts from the purchase or lease of tangible personal property made under an enforceable contract entered into before January 1, 2018, provided that delivery or possession of items is taken on or before December 31, 2017.

(2) Payments made prior to December 31, 2017, for contracts to provide taxable services, provided that such contracts were enforceable prior to January 1, 2018, however the sales and use tax shall apply to payments made pursuant to such contracts to provide services on or after January 1, 2018.

(3) The gross receipts from the purchase of construction materials used to complete a lump sum or fixed price construction contract that was signed and enforceable before January 1, 2018, and that does not provide for an allocation of future taxes, provided that the construction materials are used exclusively in performing the contract and the materials are delivered before December 31, 2017.

(4) The gross receipts from the purchase of utility services if the utility bill includes charges for services furnished before January 1, 2018, however, the sales and use tax shall apply to all utility bills for services provided after January 1, 2018.

§ 33.12 COLLECTION AND ENFORCEMENT.

The sales and use tax imposed by the city pursuant to this subchapter shall be subject to the same interests, penalties, and other rules as are applicable to the state general sales tax imposed by M.S. Chapter 289A and 297A. The sales and use tax imposed by the city pursuant to this subchapter may be collected by the state on behalf of the city as provided by an appropriate agreement with the Minnesota Commissioner of Revenue.

§ 33.13 TAX CLEARANCE ISSUANCE OF LICENSES.

(A) The city may not issue or renew a license for the conduct of trade or business in the city if the Commissioner notifies the city that the applicant for such license owes delinquent sales and use taxes as provided in this subchapter, or penalties or interest due on such taxes. For the purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

EAST GRAND FORKS SALES AND USE TAXES. Include sales and use tax as provided in this subchapter. Penalties and interest are penalties and interest due on taxes included in this definition.

DELINQUENT TAXES. Do not include a tax liability if:

- (a) In administrative or court action which contests the amount of validity or the liability has been filed or served;
- (b) The appeal period to contest tax liability has not expired; or
- (c) The applicant has entered into a payment agreement and is current with the payments.

APPLICANT. 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.

(B) 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 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 M.S. § 270C.72 for the state sales and use tax imposed under M.S. Chapter 297A, provided that if a hearing must be held on the state sales and use tax, hearings may be combined.

§ 33.14 PENALTY.

(A) Any person who shall willfully fail to make a return required by this chapter or who shall fail to pay the tax after written demand for payment, or who shall fail to remit the taxes collected or any penalty or interest imposed by this chapter after written demand for such payment or who shall refuse to permit the Finance Director or any duly authorized agents or employees to examine the books, records and papers under his or her control, or who shall willfully make any incomplete, false or fraudulent return shall be guilty of a misdemeanor.

(B) Every person violates a section, subdivision, paragraph or provision of this chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, or performs an act prohibited or declared unlawful or fails to act when such failure is prohibited or declared unlawful by a code adopted by reference by this chapter, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

Section 2. City Code Chapter 10 entitled "General Provisions" Applicable to Entire City Code Including Penalty for Violation" and Section 10.99 entitled "General Penalty" are hereby adopted in their entirety, by reference, as though repeated verbatim herein.

Section 3. This ordinance shall take effect and be in force from and after its passage and publication and be given the Number 20, 4th Series.

Voting Aye: DeMers, Vetter, Pokrzywinski, Tweten, Olstad, and Grassel.

Voting Nay: None.

Absent: Riopelle.

The President declared the Ordinance passed.

ATTEST:

PASSED: August 1, 2017

City Administrator/Clerk-Treasurer

President of Council

I hereby approve the foregoing Ordinance this 1st day of August, 2017.

Mayor