City Of Fergus Falls Minnesota

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July 19, 2023

Election Division
Secretary of State
180 State Office Building
100 Rev. Dr. martin Luther King Jr. Blvd
St. Paul, MN 55155-1299

The City of Fergus Falls received the approval of the Minnesota Legislature for a 0.5% sales and use tax. The City of Fergus Falls previously sent you the Certificate of Approval of Special Law by Governing Body and the City of Fergus Falls Resolution #119-2023 approving the 2023 Amendment.

The Ordinance No. 39, Eighth Series enacting the local sales tax is now effective. Enclosed you will find a copy of the approved ordinance for your records.

If you have any questions, please call me at (218) 332-5407.

Sincerely,

Bill Sonmor

Bill Sonmor, Finance Director
City of Fergus Falls

Document Number: 237174
Filed on July 26, 2023
Office of the Minnesota
Secretary of State, Steve Simon

CHARTER

ORDINANCE NO. 39, EIGHTH SERIES

AN ORDINANCE OF THE CITY OF FERGUS FALLS, MINNESOTA, IMPOSING LOCAL SALES AND USE TAX

The City of Fergus Falls does ordain:

Section 1. - LOCAL SALES AND USE TAX.

(A) *Authority.* At the general election held on November 8, 2022, the voters of the City of Fergus Falls approved the imposition of a one-half of one percent (0.5%) sales and use tax to finance (i) the Aquatics Center Project (defined below) in an amount of $10,800,000, plus an amount equal to interest and the costs of issuance of any bonds issued to finance the project and (ii) the DeLagoon Improvement Project (defined below) in amount of $5,200,000, plus an amount equal to interest and the costs of issuance of any bonds issued to finance the project.

Pursuant to Minnesota Session Laws, 2021, 1st Special Session, Chapter 14, Article 8, Section 6, as amended by Minnesota Session Laws, 2023, Regular Session, Chapter 64, Article 10, Sections 18 and 19 (collectively, the "Special Law"), the Minnesota Legislature has authorized the City of Fergus Falls, Minnesota (the "City"), to impose a local sales and use tax to provide revenues to pay the costs of collecting and administering the tax to the Commissioner (defined below) and to finance (i) up to $10,800,000, plus an amount needed for securing and paying debt service any bonds, including capitalized interest and the costs of issuing the bonds, for the payment of costs related to the funding of the Aquatics Center Project (defined below) and (ii) up to $5,200,000, plus an amount needed for securing and paying debt service any bonds, including capitalized interest and the costs of issuing the bonds, for the payment of costs related to the funding of the DeLagoon Improvement Project (defined below).

(B) *Definitions.* For purposes of this section, the following words, terms, and phrases have the following meanings given them unless the language or context clearly indicates a different meaning is intended.

(1) ***AQUATICS CENTER PROJECT***. The acquisition, construction, improvement, and equipping of an aquatics center in the City, as authorized by the Minnesota Legislature in the Special Law and approved by the voters at the November 8, 2022, referendum.

(2) ***CITY.*** The City of Fergus Falls, Minnesota.

(3) ***COMMISSIONER***. The Commissioner of Revenue of the State of Minnesota or a person to whom the Commissioner of Revenue has delegated functions.

(4) ***DELAGOON IMPROVEMENTS PROJECT***. The construction, improvement, betterment and equipping of the DeLagoon Improvements Project in the City, as authorized by the Minnesota Legislature in the Special Law and approved by the voters at the November 8, 2022, referendum.

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(5) ***DESIGNATED PROJECTS***. The Aquatics Center Project and the DeLagoon Improvement Project.

(6) ***SPECIAL LAW***. Minnesota Session Laws, 2021, 1st Special Session, Chapter 14, Article 8, Section 6, as amended by Minnesota Session Laws, 2023, Regular Session, Chapter 64, Article 10, Sections 18 and 19.

(7) ***STATE SALES AND USE TAX LAWS AND RULES***. 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, and 297A, and Minnesota Rules, Chapter 8130, as amended from time to time.

(C) *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 of one percent (0.50%) on the gross receipts from sales at retail sourced within city limits of the City that are taxable under the State Sales and Use Tax Laws and Rules. A local use tax is imposed in the amount of one-half of one percent (0.50%) on the storage, use, distribution or consumption of goods or services sourced within the city limits of the City that 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 section. The local sales and use tax imposed by this section 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.

(D) *Effective date of tax; transitional sales*. Except as otherwise provided herein, the local sales and use tax imposed by this section shall apply to sales and purchases made on or after October 1, 2023. The local sales and use tax imposed by this section shall not apply to:

(1) 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, 2023, and that delivery of the tangible personal property subject thereto is made on or before October 1, 2023.

(2) 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, 2023, and that delivery of the tangible personal property used in performing such construction contract is made before April 1, 2024.

(3) The purchase of taxable services, including utility services, if the billing period includes charges for services furnished before and after October 1, 2023, but the local sales and use tax imposed by this section shall apply on the first billing period not including charges for services furnished before October 1, 2023.

(4) Lease payments for tangible personal property and motor vehicles that includes a period before and after October 1, 2023, but the local sales and use tax imposed by this section shall apply on a prorated basis to lease payment amounts attributable to that portion of the lease

payment period on or after October 1, 2023 and on the entire lease payment for all lease payment periods thereafter.

(E) *Tax clearance; issuance of licenses.*

(1) 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 taxes of the City as provided in this section, or penalties or interest due on such City taxes. City taxes include sales and use taxes provided in this section. Penalties and interest are penalties and interest due on taxes included in this definition.

(2) 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.

(3) 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.

(4) 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 Minnesota Statutes, Chapter 297A; provided further that if a hearing must be held on the state sales and use tax, hearings must be combined.

(F) *Deposit of revenues; costs of administration; termination of tax.*

(1) All of the revenues, interest, and penalties derived from the local sales and use tax imposed by this section collected by the Commissioner and remitted to the City shall be deposited 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 section and to finance the capital and administrative costs directly related to completing the Designated Projects.

(2) The local sales and use tax imposed by this section shall terminate at the earlier of: (1) December 31, 2037; or (2) when the City Council determines that $10,800,000 for the Aquatics Center Project, plus $5,200,000 for the DeLagoon Improvements Project, plus an amount equal to interest and the costs of issuance of any bonds issued to finance the Aquatics Center Project and/or the DeLagoon Improvements Project, including capitalized interest and the costs of issuing the bonds, has been received from the local sales and use tax imposed by this section 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 section may terminate at an earlier time if the City Council so determines by ordinance. In any event, the local sales and use tax imposed under this section may only terminate on the last day of a calendar quarter upon 90 days' notice to the Commissioner.

(G) *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 section. Any such agreement shall not abrogate, alter, or otherwise conflict with the State Sales and Use Tax Laws and Rules, this ordinance, or the Special Law.

(H) *Summary publication*. The following summary is approved by the City Council and, if this Ordinance has been enacted by at least a four-fifths majority of all of the members of the City Council, this summary shall be published in the City's official newspaper for at least two successive weeks 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 of one percent (0.50%) on retail sales made after October 1, 2023, to be used to fund the costs of collecting and administering the tax and the finance the costs of certain Designated Projects related to the construction of an aquatics center and the DeLagoon Improvement Project in the City.

If the Ordinance was enacted by less than a four-fifths majority of all of the members of the City Council, then the full text of the ordinance shall be published in the City's official newspaper.

EFFECTIVE DATE. This ordinance of the City of Fergus Falls shall be effective upon its approval and second publication.

ADOPTED by the City Council this, this 20th day of June, 2023.

AYES: Hicks, Fish, Job, Kvamme, Rufer, Kremeier, Rachels
NAYES: None
ABSENT: Thompson

Ben Schierer, Mayor

ATTEST:

Andrew Bremseth
City Administrator

Published in the City's official newspaper, the *Fergus Falls Daily Journal*, on June 24 and 28, 2023.

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