ORDINANCE NO. _____

AN ORDINANCE AMENDING AND RE-ENACTING ARTICLE 11, SECTION 54-26 AND 54-33 OF THE CITY CODE OF THE CITY OF DICKINSON, NORTH DAKOTA, RELATING TO SALES AND USE TAX

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF DICKINSON, NORTH DAKOTA, AS FOLLOWS:

Section 1: Article 11, Section 54-26 and 54-33 of the City Code of the City of Dickinson is hereby amended and re-enacted as follows:

Sec. 54-25. Definitions.

All terms defined in N.D.C.C. Chs. 57-39.2 and 57-40.2, including all future amendments, are adopted by reference.

(Code 1993, § 35.010; Ord. No. 1040, § 1)

Sec. 54-26. Sales tax imposed.

Except as otherwise provided in this article, a tax of 2.5 percent is imposed upon the gross receipts of retailers from all retail sales within the corporate limits of the City, of the following:

(1) Tangible personal property, consisting of goods, wares, or merchandise.

(2) The furnishing or service of gas, communication 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 playing of any machine for amusement or entertainment in response to the use of a coin.

(4) Magazines and other periodicals.

(5) The leasing or renting of a hotel or motel room or tourist court accommodations.

(6) The leasing or renting of tangible personal property, the transfer of title to which has not been subjected to a retail sales tax under this chapter.

(7) Sales of alcoholic beverages and tobacco products as defined in N.D.C.C. § 57-39.2-03.9.

(8) Furnishing and installment or attachment to real property in the State by a contractor or a subcontractor who is a retailer of drapes, hardware for hanging drapes, or carpet for floor covering.

(Code 1993, § 35.020; Ord. No. 1040, § 1; Ord. No. 1233, § 1)

Sec. 54-27. Use tax imposed.

Except as otherwise provided in this chapter, a use tax of 2.5 percent is imposed on the storage, use or consumption in the City 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 of tangible personal property which was not originally purchased for storage, use or consumption in the City, at the time which it is brought into the City.

(3) Alcoholic beverages and tobacco products which are stored, used or consumed in the City, as provided in N.D.C.C. § 57-39.2-03.9.

(4) The purchase price of tangible personal property used by a contractor or subcontractor to fulfill a contract as defined in N.D.C.C. § 57-40.2-03.3. This tax applies only to bids submitted on or after July 1, 1990.

(Code 1993, § 35.030; Ord. No. 1040, § 1; Ord. No. 1233, § 2)

Sec. 54-28. Exemptions.

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

(Code 1993, § 35.040; Ord. No. 1040, § 1)

Sec. 54-29. Maximum tax imposed.

No single transaction involving one or more items is subject to a tax in excess of $100.00.

(Code 1993, § 35.050; Ord. No. 1040, § 1; Ord. No. 1233, § 3; Ord. No. 1624, § 1; Ord. No. 1627, § 1)

Sec. 54-30. Collection and administration.

The Tax Commissioner and the City Auditor shall have the powers enumerated in the provisions of N.D.C.C. Chs. 57-39.2 and 57-40.2 relating to the collection 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.

(Code 1993, § 35.060; Ord. No. 1040, § 1)

Sec. 54-31. Contract with state Tax Commissioner.

The City Auditor is hereby authorized to contract with the Tax Commissioner for the administration and collection of taxes imposed by this article. The City Auditor has all powers granted the Commissioner and in the absence of a valid contract with the Commissioner or failure of the Commissioner to perform the delegated duties, shall perform these duties in place of the Commissioner.

(Code 1993, § 35.070; Ord. No. 1040, § 1)

Sec. 54-32. Corporate officer liability.

Officers of any corporation required to remit taxes imposed by this article are personally liable for the failure of the corporation to file required returns or remit required payments. The dissolution of a corporation shall not discharge an officer's liability for a prior failure of the corporation to make a return or remit the tax due. The tax, penalty, and interest due may be assessed and collected pursuant to the provisions adopted by this chapter.

(Code 1993, § 35.080; Ord. No. 1040, § 1)

Sec. 54-33. Dedication of tax proceeds.

(a) All revenues raised and collected from the one percent sales and use tax initially adopted on July 1, 1990, less administrative expenses, shall be dedicated as follows:

(1) 50 percent of said revenues shall be dedicated to bonded indebtedness, property tax reduction, and infrastructure (streets, water and sewer).

(2) 30 percent of said revenues shall be dedicated to capital improvements to enhance social and economic vitality of the City and the Southwest area.

(3) 20 percent of said revenues shall be dedicated to job creation and senior citizen activities. All revenue shall be maintained in a fund, to be known as the sales tax fund, separate and apart from all other funds, except as provided by this section.

(b) All revenues raised and collected from the additional one-half percent sales and use tax adopted by Ordinance No. 1233, less administrative expenses, shall be dedicated as follows:

(1) Construction of a public building (community center) to be used for the purpose of an aquatic center, gymnasium and related uses, which may include pledging such sales and use tax revenues to the payment of bond issued for such construction in anticipation of the collection and receipt of such sales and use tax, and if so pledged, the sales and use tax may not be repealed so long as any such bonds or bonds refunding the bonds are outstanding; or

(2) Operation, maintenance and repair expenses for a public building (community center) to be used for the purpose of an aquatic center, gymnasium and related uses; or

(3) Property tax reduction and infrastructure (streets, water and sewer).

(c) All revenues raised and collected from the additional one percent sales and use tax adopted by Ordinance No. X, less administrative expenses, shall be dedicated for the sole purpose of

funding public safety infrastructure and operations, which shall include personnel, equipment, facilities, technology and capital improvements.

(d) The Board of City Commissioners shall determine the amount by which the bonded debt and the property tax levy shall be reduced each year prior to the adoption of the City's budget.

(e) In the event that the Board of City Commissioners desires to change the distribution formula herein created and the Board of City Commissioners has so determined the necessity of such changes, the Board of City Commissioners shall call for an election for any change or modification of a sales tax in the City.

(f) Revenues and any income therefrom shall accumulate in the sales tax fund until expended by the Board as permitted by this section.

(Code 1993, § 35.090; Ord. No. 1040, § 1; Ord. No. 1100, § 1; Ord. No. 1233, § 4; Ord. No. 1351, § 1)

Sec. 54-34. Termination.

The Board of City Commissioners shall refer to a vote of electorate, no later than July 1, in the fifth year following the year in which the ordinance from which this article is derived takes effect, the question of whether said ordinance shall be repealed or continued in effect. If a majority of qualified voters voting on the question vote to repeal the ordinance, it shall be repealed effective at 12:00 midnight on March 31 of the following year.

(Code 1993, § 35.110; Ord. No. 1040, § 1)

Section 2: Repeal of Ordinances in Conflict. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

Section 3: Severability. In the event any section of this Ordinance is held invalid by court of competent jurisdiction, the invalidity shall extend only to the section affected, and other sections of this Chapter shall continue in full force and effect.

Section 4: Effective Date: This Ordinance shall be in full force and effect from and after final passage.

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Scott Decker, President
Board of City Commissioners

ATTEST

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Dustin Dassinger, City Administrator

First Reading:
Second Reading:
Final Passage: