

ORDINANCE 24-12

**CITY OF DILWORTH SALES AND USE TAX ORDINANCE FOR A NEW
COMMUNITY AND RECREATION CENTER**

THE CITY COUNCIL OF THE CITY OF DILWORTH DOES HEREBY ORDAIN:

LOCAL SALES AND USE TAX

Section 1. Authority. Pursuant to the Laws of Minnesota for 2023, Chapter 64, Article 10, Section 32, the Minnesota Legislature has authorized the city to impose a local sales and use tax to pay the costs of collecting and administering such tax to the commissioner of revenue of the State of Minnesota and to finance the capital and administrative costs related to the funding of the designated project. At the general election held on November 5, 2024, the voters approved the imposition of a sales and use tax up to one-half of one percent (0.5%) to finance the designated project. The City Council has, by way of resolutions, canvassed the results of the general election, accepted the authorization to impose the city sales and use tax, and directed the filing of a certificate of approval with the Secretary of State.

Section 2. Definitions. For purposes of this chapter, the words, terms, and phrases used herein shall have the meanings ascribed to them in Minnesota Statutes, chapter 297A, except where the context clearly indicates otherwise. In addition, the following words, terms, and phrases have the meanings given to them in this section unless the language or context clearly indicates a different meaning is intended.

- (a) **Act.** “Act” means the Laws of Minnesota for 2023, Chapter 64, Article 10, Section 32, as amended.
- (b) **City.** “City” means the City of Dilworth, Minnesota.
- (c) **City sales and use tax.** “City sales and use tax” means the sales and use tax imposed and collected pursuant to this chapter.
- (d) **Commissioner.** “Commissioner” means the commissioner of revenue of the state of Minnesota, acting under the authority of an agreement entered between the City and the State of Minnesota pursuant to the Act, or such other person to whom the commissioner has delegated such functions.
- (e) **Designated project.** “Designated project” means the planning, design, construction, and any other capital and administrative costs of a community and recreational center in an aggregate principal not to exceed \$5,400,000, plus an amount to pay interest on and costs of issuing any bonds issued pursuant to the Act.
- (f) **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 of one percent (0.5%) 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 of one percent (0.5%) 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 city sales and use tax imposed by this chapter. The city 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. Separate statement; collection; advertising no tax.

(a) The city sales and use tax shall be stated and charged separately from the sale price or charge for service insofar as practicable and shall be collected by the seller from the purchaser and shall be a debt from the purchaser to the seller recoverable at law in the same manner as other debts.

(b) No retailer in the City shall advertise or state to the public or any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the sales price or that, if added, it or any part thereof will be refunded.

Section 5. Exemption certificate. 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 the application of the city sales and use tax will conclusively relieve the retailer from collecting or remitting the city sales and use tax. A person who has obtained from the commissioner an exemption certificate pursuant to state sales and use tax laws and rules may use such exemption certificate for the purposes of the city sales and use tax.

Section 6. Agent of retailer. When, in the opinion of the commissioner, it is necessary for the efficient administration of the city 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 operates or from whom the tangible personal property being sold is obtained and may regard the dealer, distributor, supervisor, employer, or other person as a retailer for the purposes of this chapter.

Section 7. Effective date of tax; transitional sales. Except as otherwise provided herein, the city sales and use tax imposed by this chapter shall apply to sales and purchases made on or after April 1, 2025. The city 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 April 1, 2025, and that delivery of the tangible personal property subject thereto is made on or before April 1, 2025.
- (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 April 1, 2025, and that delivery of the tangible personal property used in performing such construction.
- (c) The purchase of taxable services, including utility services, if the billing period includes charges for services furnished before and after April 1, 2025, 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 April 1, 2025.
- (d) Lease payments for tangible personal property and motor vehicles that includes a period before and after April 1, 2025, 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 April 1, 2025, and on the entire lease payment for all lease payment periods thereafter.

Section 8. 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. The phrase "city taxes" includes the city sales and use tax provided in this chapter. 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) 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.
- (d) 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 thirty (30) calendar days of receipt of the notice of hearing, then, a contested hearing shall be held under the same

procedures as provided in Minnesota Statutes, chapter 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.

Section 9. Deposit of revenues; costs of administration; termination of tax.

- (a) All of the revenues, interest, and penalties derived from the city sales and use tax imposed by this chapter collected by the commissioner and remitted to the city shall be deposited by the city finance officer in the city treasury and shall be credited to the fund established to pay the costs of collecting the city sales and use tax imposed by this chapter and to finance the capital and administrative costs directly related to completing the designated project.
- (b) The city sales and use tax imposed by this chapter shall terminate at the earlier of: (1) 25-years after the tax is first imposed; or (2) when the Dilworth City Council determines that \$5,400,000, plus an amount sufficient to pay the costs related to issuing bonds and interest on the bonds has been received from the city sales and use tax imposed by this chapter to pay for all the capital and administrative costs directly related to completing the designated project. 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 city sales and use tax imposed by this chapter may terminate at an earlier time if the Dilworth City Council so determines by ordinance.

Section 10. Issuance of bonds. The city is authorized to issue general obligation sales tax revenue bonds to finance the designated project, pledging the city sales and use tax for debt service on the bonds, in an amount not to exceed \$5,400,000, plus the amount needed for securing and paying debt service, including interest, on the bonds for a period of twenty-five (25) years in accordance with this ordinance.

Section 11. 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 city 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 the Laws of Minnesota for 2023, Chapter 64, Article 10, Section 32.

Section 12. 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 city finance officer or any duly authorized agent or employee 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) This chapter may, but need not, be enforced through the City of Dilworth Administrative Penalty Ordinance.

Section 13. Summary publication. The following summary is approved by the Dilworth 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 of one percent on retail sales made after April 1, 2025, to be used to fund a certain designated project related to collecting and administering the tax and issuing bonds under Minnesota Statutes, chapter 475, and to finance all or a part of the costs, and securing and paying debt service on the bonds issued for, the construction of a new community and recreational center in the City.

Section 14. This Ordinance shall be in full force and effect from and after its passage and publication.

ADOPTED by the City of Dilworth the 25th day of November, 2024.

MAYOR:


Chad Olson, Mayor

ATTEST:


L. Peyton Mastera, City Administrator

