

ORDINANCE ENACTING CHAPTER XIX, TAXATION,
ESTABLISHING A CITY SALES AND USE TAX

Be it ordained by the City Commission of the City of Hazen, North Dakota, that Chapter XIX, Taxation, of the Revised Ordinances of the City of Hazen, North Dakota, be hereby enacted to read as follows:

Article I. City Sales and Use Tax

Section 1	Definitions
Section 2	Sales Tax Imposed
Section 3	Use Tax Imposed
Section 4	Exemptions
Section 5	Maximum Tax Imposed
Section 6	Tax Returns and Information Reports
Section 7	Tax Payments; Collections; Penalties
Section 8	Tax Administrator
Section 9	Corporate Officer Liability
Section 10	Deduction to Reimburse Retailer for Administrative Expenses
Section 11	Dedication of Tax Proceeds
Section 12	Penalties
Section 13	Tax Commencement
Section 14	Termination

Section 1. Definitions

All terms defined in Chapter 57-39.2 and Chapter 57-40.2 of the North Dakota Century Code (NDCC), including all future amendments, are adopted by reference and incorporated herein.

Section 2. Sales Tax Imposed

Except as otherwise provided in this Chapter, a tax of one percent (1%) is imposed upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as provided in this section, within the corporate limits of the City of Hazen, North Dakota, of the following to consumers or users:

1. Tangible personal property, consisting of goods, wares or merchandise, including mobile homes.
2. The furnishing or service of communication services or steam other than steam used for processing agriculture 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 furnishing of bingo cards and playing of any machine for amusement or entertainment in response to the use of a coin. The tax imposed by this section applies only to eight percent (80%) of the gross receipts collected from coin-operated amusement devices.
4. Magazines and other periodicals.

5. The leasing or renting of a hotel or motel 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 or use tax under this chapter.
7. Sales of alcoholic beverages and tobacco products as defined in Section 57-39.2-03.2 NDCC.
8. Furnishing and installment or attachment to real property in this state by a contractor or a subcontractor who is a retailer of drapes, hardware for hanging drapes, or carpet for floor covering.
9. Sales through vending machines to the extent taxable by the State under Section 57-39.2-03.3 NDCC.

Section 3. Use Tax Imposed

Except as otherwise provided in this chapter, an excise tax of one percent (1%) is imposed on the storage, use, or consumption in the city of Hazen on:

1. The purchase price of tangible personal property, including mobile homes, purchased at retail for storage, use, or consumption within the city.
2. The fair market value of tangible personal property, including mobile homes, which was not originally purchased for storage, use or consumption in the city, at the time which it is brought into this city.
3. Alcoholic beverages and tobacco products which are stored, used or consumed in this city, as provided in Section 57-40.2-03.2 NDCC.
4. The purchase price of tangible personal property used by a contractor or subcontractor to fulfill a contract as defined in Section 57-40.2-03.3 NDCC. This tax applies only to bids submitted on or after the effective date of this chapter.

Section 4. Exemptions

There are specifically exempted from the provisions of this chapter and from the computation of the amount of tax imposed by it the following:

1. 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 of North Dakota are specifically exempt from the provisions of this chapter.
2. Farm Machinery.
3. Farm Machinery Repair Parts.
4. Farm Irrigation Equipment.

Section 5. Maximum Tax Imposed

No single transaction by the taxpayer from any one customer involving one or more items is subject to a tax in excess of \$25.00.

Section 6. Tax Returns and Information Reports

The tax administrator is authorized to create, publish, and to require the use of, such tax return forms and information reports as are necessary to administer the tax provided for herein. To the extent feasible, these forms shall incorporate or be integrated with the returns and reports required by the State Tax Commissioner under Sections 57-39.2 and 57-40.2 NDCC.

Section 7. Tax Payments; Collections; Penalties

The tax imposed herein shall be paid and collected as nearly as practical in accordance with the payment, collection and penalty provisions of Chapters 57-39.2 and 57-40.2 NDCC.

Section 8. Tax Administrator

The tax administrator shall be the City Auditor. However, the City Auditor is authorized to contract with the State Tax Commissioner to enforce this chapter, subject to confirmation of the contract by the City Commission. If the contract is made and confirmed, the tax administrator shall be the State Tax Commissioner as long as the contract remains in force.

Section 9. Corporate Officer Liability

Officers of any corporation required to remit taxes imposed by this chapter 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.

Section 10. Deduction to Reimburse Retailer for Administrative Expenses

1. A retailer who pays the tax due hereunder within the time limitations prescribed may deduct and retain three percent (3%) of the tax due.
2. The aggregate of deductions allowed by this section may not exceed Two Hundred Fifty and No/100 Dollars (\$250.00) per quarterly period for each business location required to remit sales tax hereunder.
3. The deduction allowed retailers by this section is to reimburse retailers for expenses incurred in keeping records, preparing and filing returns, remitting the tax, and supplying information to the Auditor and Commissioner upon request.

Section 11. Dedication of Tax Proceeds

All revenues raised and collected under this article, less administrative expenses, shall be placed

in a separate sales and use tax fund which shall be dedicated exclusively as follows:

1. Property tax relief and infrastructure improvements - 50%.
2. Economic development - 50%.

Section 12. Penalties

1. If any person fails to file a return or corrected return or to pay any tax within the time required by this chapter or, if upon audit, is found to owe additional tax, such person shall be subject to a penalty as established in Section 57-39.2-18(1) of the North Dakota Century Code. Such penalty may be imposed by the Municipal Court of the City of Hazen or any other Court of competent jurisdiction.
2. The certificate of the Auditor, or where applicable, the North Dakota State Tax Commissioner to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this chapter, shall be prima facie evidence thereof.
3. Any person failing to comply with any of the provisions of this chapter or failing to remit within the time herein provided the tax due on any use, sale or purchase of tangible personal property subject to said sales and use tax shall, in addition to penalties imposed hereinabove, be subject to a fine, upon conviction in the Municipal Court, not to exceed Five Hundred Dollars (\$500.00).

Section 13. Tax Commencement

The taxes imposed herein shall apply to sales and uses from and after the 1st day of April, 1995.

Section 14. Termination

1. The sales and use tax imposed by this article shall terminate after June 30, 1999, unless prior to that date a majority of the qualified electors of the City of Hazen vote to extend the sales and use tax indefinitely or to a time certain.
2. This ordinance shall be in full force and effect from and after its final passage, approval and publication.

1st Reading: November 21, 1994
2nd Reading: December 5, 1994
Publication: December 15, 1994



Mark Nygard, President

ATTEST:



Karen Stiller, Auditor

Be it ordained by the City Commission of the City of Hazen, North Dakota, that Chapter XIX, Taxation, of the Revised Ordinances of the City of Hazen, North Dakota, be hereby enacted to read as follows:

Article I.

City Sales and Use Tax

Sections 1 through 11, and 14. For the text of these provisions you may review or obtain a copy of the ordinance from the Hazen City Auditor.

Section 12: Penalties

1. If any person fails to file a return or corrected return or to pay any tax within the time required by this chapter or, if upon audit, is found to owe additional tax, such person shall be subject to a penalty as established in Section 57-39.2-18(1) of the North Dakota Century Code. Such penalty may be imposed by the Municipal Court of the City of Hazen or any other Court of competent jurisdiction.

2. The certificate of the Auditor, or where applicable, the North Dakota State Tax Commissioner to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this chapter, shall be prima facie evidence thereof.

3. Any person failing to comply with any of the provisions of this chapter or failing to remit within the time herein provided the tax due on any use, sale or purchase of tangible personal property subject to said sales and use tax shall, in addition to penalties imposed hereinabove, be subject to a fine, upon conviction in the Municipal Court, not to exceed Five Hundred Dollars (\$500.00).

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1st Reading: November 21, 1994

2nd Reading: December 5, 1994

Publication: December 15, 1994

CITY OF HAZEN

(12-15-94)

Affidavit of Publication

STATE OF NORTH DAKOTA)
County of Mercerl)

I, SHELLEY CHASE being first duly sworn, on my oath, say that I am the bookkeeper of The Hazen Star, a weekly newspaper of general circulation, published in the city of Hazen, in said county and state, and that the advertisement headed:

CITY OF HAZEN ORDINANCE AMENDMENT

a printed copy of which is here annexed, was published in the regular and entire issue of said newspaper during the period and time of publication, and that the notice was published in the newspaper proper, and not in a supplement, for 1 consecutive week 12/15/94 to wit:

Straight Matter Lines	<u>56</u>	<u> </u> , 19 <u> </u>
First Time Line Rate	<u>44¢</u>	<u>24.64</u> <u>12/15/</u> , 19 <u>94</u>
Subsequent Line Rates	<u>35¢</u>	<u> </u> , 19 <u> </u>
Column Inches	<u> </u>	<u> </u> , 19 <u> </u>
Inch Rate	<u>\$5.00</u>	<u> </u> , 19 <u> </u>
Notary Fee	<u>1.00</u>	Total Cost of Legal <u>\$25.64</u>

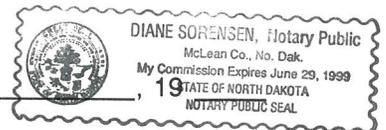
Shelley Chase

Subscribed and sworn to before me this 19 day of Dec
A.D. 1994.

(Seal) *Diane Sorensen*

Notary Public, State of North Dakota

My Commission Expires _____



CHAPTER XIX.

(Reserved for future use)

Ordinance No. 01-XIX-2

BE IT ORDAINED by the Board of City Commissioners of the City of Hazen, North Dakota, that Chapter XIX, Taxation, of the Revised Ordinance of the City of Hazen, North Dakota, be amended and reenacted and a new Article II be created and approved in the form attached:

Article II. Lodging and Restaurant Tax

Section 1. Restaurant tax – Imposition – Amount – Disposition. There is imposed a tax of one percent upon the gross receipts of retailers on the leasing or renting of hotel, motel, or tourist court accommodations within the city for periods of less than thirty consecutive calendar days or one month and upon the gross receipts of a restaurant from any sales of prepared food or beverage, not including alcoholic beverages for consumption off the premises where purchased, which are subject to state sales taxes. For purposes of this section “restaurant” means any place where food is prepared and intended for individual portion service for consumption on or off the premises, and “prepared” includes heating prepackaged food. Accommodations, food, and beverages may all, each, or in any combination be subjected to the tax under this section, if all items in any category which are taxable under state law are taxable, except as otherwise provided by Chapter 40-57.3 of the North Dakota Century Code or its successor. The tax imposed under this section is in addition to state and any other local sales taxes on rental accommodations and restaurant sales. All taxes the city receives under this section shall be deposited in the city visitor’s promotion capital construction fund. Moneys deposited in the city visitors’ promotion capital construction fund shall be spent only as provided in Chapter 40-57.3 of the North Dakota Century Code or its successor.

Section 2. City visitors’ promotion fund – City visitors’ promotion capital construction fund – Visitors’ committee – Establishment – Purpose. There is established a city visitors’ promotion capital construction fund and a visitors’ committee. The visitors’ committee shall serve as an advisory committee to the city commission in administering the proceeds from the taxes available to the city under this article. The moneys in the visitors’ promotion capital construction fund must be used generally for tourism or the purchase, equipping, improving, construction, maintenance, repair and acquisition of buildings or property consistent with the visitor attraction or promotion. The committee shall consist of five members appointed by the city commission. These appointees shall serve without compensation, except for reimbursement for necessary expenses. Committee members shall serve for a term of four years, except that two of those initially appointed must be appointed for an initial term of two years. Vacancies must be filled in the same manner as the initial appointment. The committee shall

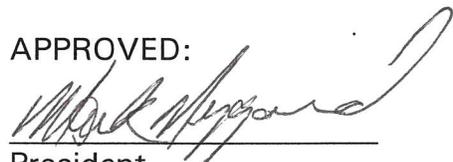
elect a chairperson and vice-chairperson from among its members to serve for a term of two years.

Section 3. Budget – Contracts – Bonds – Capital construction. The city commission shall annually set the budget, if any, under which the committee shall operate. The city commission may contract with any person, firm, association, corporation or limited liability company to carry out the purposes of the city visitors' promotion capital construction fund created under Section 2. The city commission may irrevocably dedicate any portion of revenues from the tax authorized herein and may authorize and issue bonds or other evidences of indebtedness in a manner prescribed by Section 40-35-08 of the North Dakota Century Code to be paid by those revenues for any purpose that moneys in the city visitors' promotion capital construction fund may be used; and such tax upon being pledged to payment of bonds or evidences of indebtedness issued pursuant to this section may not be reduced or repealed by the city commission or by the electors of the city by any initiated amendment to or referendum of the ordinance establishing Section 1, so long as any of such bonds or evidences of indebtedness remain outstanding. The proceeds from the tax imposed under Section 1 may be used only in a manner consistent with the purpose of this article.

Section 4. Effective date. This article becomes effective sixty days from the date of its adoption by the Hazen City Commission.

Section 5. Maximum Tax. The tax imposed under this article may not exceed one percent.

APPROVED:



President

ATTEST:



CITY AUDITOR

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY:

BY 

PASSED BY THE CITY COMMISSION:

First Reading: July 23, 2001 All present and all voted Aye

Second Reading: July 30, 2001

PUBLISHED: not required

EFFECTIVE DATE: 60 days after passing – October 1, 2001

ORDINANCE NO. 01-XIX-2

AN ORDINANCE OF THE CITY OF HAZEN, NORTH DAKOTA, READOPTING AND AMENDING CHAPTER XIX, ARTICLE II, OF THE MUNICIPAL ORDINANCES ENTITLED "LODGING AND RESTAURANT TAX," ADDING A TWO PERCENT LODGING TAX, RE-ENACTING THE PRESENT LODGING AND RESTAURANT TAX (HOSPITALITY TAX) AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, subsection 40-57.3-01 N.D.C.C. authorizes the City to enact an ordinance for the purpose of imposing a city tax of two percent, upon the gross receipts of retailers on the leasing or renting of hotel, motel, or tourist court accommodations within the city for periods of less than thirty consecutive calendar days or one month. The tax imposed by this section shall be in addition to the state sales tax on rental accommodations provided in chapter 57-39-2 and section 40-57.3-01.1 and the city shall deposit all proceeds from the tax into the city visitor's promotion fund to be spent only as provided in the ordinance; and

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HAZEN, NORTH DAKOTA THAT CHAPTER XIX, ARTICLE 11, SECTION 1 IS AMENDED AS FOLLOWS:

Section 1. **City Lodging and Restaurant tax** – imposition-Amount – Disposition. By virtue of section 40-57.3-01 N.D.C.C., there is imposed a tax of **two** percent upon the gross receipts of retailers on the leasing or renting of hotel, motel, or tourist court accommodations within the city for periods of less than thirty consecutive calendar days or one month

In addition, the existing one percent lodging tax and one percent upon the gross receipts of a restaurant, **together known as the "hospitality tax"**, from any sales of prepared food or beverage imposed by virtue of section 40-57.3-01.1, not including alcoholic beverages for consumption off the premises where purchases, which are subject to state sales tax, shall remain in effect. All other provision of the existing Section 1 not modified as above are reenacted and adopted as previously adopted.

These provisions are to go into effect no sooner than 60 days after the final date of adoption or immediately upon approval of the State of North Dakota Tax Department for collection and distribution purposes after the 60 days.

APPROVED:


President

ATTEST:

Samia K. Bohrer
City Auditor

APPROVED AS TO FORM:

OFFICE OF THE City Attorney:

BY Patrick Donovan

PASSED BY THE CITY COMMISSION:

First Reading: January 4, 2010 All present and voted in favor

Second Reading: January 18, 2010 All present and voted in favor

EFFECTIVE DATE: The earliest date permitted by law and the State of North Dakota Tax Department, but no sooner than 60 days after January 18, 2010

AN ORDINANCE OF THE CITY OF HAZEN, NORTH DAKOTA, READOPTING AND AMENDING CHAPTER XIX, ARTICLE I, OF THE MUNICIPAL ORDINANCES ENTITLED "CITY SALES AND USE TAX," ADDING A ONE-HALF PERCENT SALES AND USE TAX TO THE PRESENT ONE PERCENT SALES AND USE TAX, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 40-5.1, N.D.C.C. authorizes the City to enact an ordinance for the purpose of imposing city sales and use taxes under its Home Rule Charter; and

WHEREAS, the City presently has a one percent sales and use tax; and

WHEREAS, the City has amended its Home Rule Charter so as to enact an ordinance for the purpose of imposing an additional one-half percent city sales and use tax to be dedicated to the repair and improvement of the Hazen Park District operated city swimming pool for a period up to ten (10) years; and

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HAZEN, NORTH DAKOTA THAT CHAPTER XIX, ARTICLE 1, SECTIONS 2, 3, 11 AND 14 ARE AMENDED AS FOLLOWS:

Section 2. Sales Tax Imposed

Except as otherwise provided in this Chapter, a tax of one **and one-half** percent (1 $\frac{1}{2}$ %) is imposed upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as provided in this section, within the corporate limits of the City of Hazen, North Dakota, of the following to consumers or users:

And :

Section 3. Use Tax Imposed

Except as otherwise provided in this chapter, an excise tax of one percent **and one-half** percent (1 $\frac{1}{2}$ %) is imposed on the storage, use, or consumption in the city of Hazen on:

And:

Section 11. Dedication of Tax Proceeds

All revenues raised and collected under this article, less administrative expenses, shall be placed

in a separate sales and use tax fund which shall be dedicated exclusively as follows:

- (a) Property tax relief and infrastructure improvements – 33.33%.
- (b) Economic development – 33.33%.
- (c) Hazen swimming pool repair and improvement – 33.33%.

This portion of the sales and use tax goes into effect no sooner than 60 days after the final date of adoption or immediately upon approval of the State of North Dakota Tax Department for collection and distribution purposes after the 60 days. The tax will be distributed to the Park District of Hazen under a Joint Powers Agreement.

(The tax must equal 100%).

And :

Section 14. Termination

1. The sales and use tax imposed by this article shall terminate after June 30, 1999, unless prior to that date a majority of the qualified electors of the City of Hazen vote to extend the sales and use tax indefinitely or to a time certain.

One-half per cent (1/2%) of the sales and use tax terminates June 13, 2023, or sooner if the repairs and improvements to the Hazen Swimming Pool are completed as set forth in a separate Joint Powers Agreement between the City of Hazen and the Park District of the City of Hazen.

APPROVED:



President

ATTEST:



City Auditor

PASSED BY THE CITY COMMISSION:

First Reading: June 17, 2013 Vote: Yes - 5 No - 0

Second Reading: July 1, 2013 Vote: YES - 5 No - 0

EFFECTIVE DATE: The earliest date permitted by law and the State of North Dakota Tax Department, but no sooner than 60 days after July 1, 2013.