

**CHAPTER TWENTY**  
**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	Collection and Administration.
Section 7	Contract with Tax Commissioner.
Section 8	Corporate Officer Liability
Section 9	Deduction to Reimburse Retailer for Administrative Expenses.
Section 10	Dedication of Tax Proceeds.
Section 11	Dispersal of Funds.
Section 12	Saving Clause.
Section 13	Penalties
Section 14	Effective Date.

BE IT ORDAINED BY THE CITY COMMISSION) OF THE CITY OF WILTON, BURLEIGH & MCLEAN COUNTY, NORTH DAKOTA:

**SALES, USE, AND GROSS RECEIPTS TAX**

**Section 1:**

**Definitions.**

All terms defined in chapters 40-05.1, 57-39.2, 57-39.4, 57-39.5, 57-39.6, and 57-40.2 of the North Dakota Century Code (N.D.C.C.), including any future amendments, are adopted by reference. All references to the N.D.C.C. include amendments adopted by the North Dakota Legislative Assembly.

**Section 2:**

**Sales Tax Imposed.**

Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided by this Ordinance, or the sales and use tax laws of the State of North Dakota, a tax of (2%) percent is imposed upon the gross receipts of retailers from all sales at retail, including the leasing or renting of tangible personal property, within the corporate limits of the of the city of Wilton, North Dakota.

**Section 3:**

**Use Tax Imposed.**

Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided in this Ordinance, or the sales and use tax laws of the State of North Dakota, an excise tax is imposed upon the storage, use, or consumption within the corporate limits of the city of Wilton, North Dakota of tangible personal property purchased at retail for storage, use, or consumption in this city, at the rate of (2%) percent of the purchase price of the property. An excise tax is imposed on the storage, use, or consumption within the corporate limits of the city of Wilton, North Dakota of tangible personal property not originally purchased for storage, use, or consumption in this city at the rate of (2%) percent of the fair market value of the property at the time it was brought into this city.

With respect to 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, the tax imposed by this section applies only to bids submitted on or after the effective date of this Ordinance.

**Gross Receipts of Alcoholic Beverages.**

Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided in this Ordinance, a gross receipts tax of (2%) percent is imposed upon all gross receipts from the sale of alcoholic beverages within the city. A person who receives alcoholic beverages for storage, use, or consumption in this state is subject to tax on storage, use, or consumption of those alcoholic beverages at the rate of (2%) percent.

**Gross Receipts of New Farm Machinery and New Farm Irrigation Equipment.**

Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided in this Ordinance, a gross receipts tax of (2%) percent is imposed upon all gross receipts from the sale of new farm machinery and new farm irrigation equipment within the city. A person who receives new farm machinery or new farm irrigation equipment for storage, use, or consumption

in this state is subject to tax on storage, use, or consumption of that machinery and/or equipment at the rate of (2%) percent.

**Section 4:**

**Exemptions.**

In addition to the exemptions provided by state law, this Ordinance provides exemptions from imposition and computation of the city sales or use tax for sales of 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.

**Section 5:**

**Maximum Tax Imposed.**

Any patron or user paying a tax imposed by this Ordinance in excess of fifty dollars (\$50.00) upon any single transaction of one or more items may obtain a refund of the excess tax payment by filing a request for refund upon the forms provided by the Tax Commissioner.

**Section 6:**

**Collection and Administration.**

Where not in conflict with the provisions of this Ordinance, the provisions of N.D.C.C. chapters 40-05.1, 57-39.2, 57-39.4, 57-39.5, 57-39.6, and 57-40.2, and all administrative rules adopted by the Tax Commissioner, pertaining to the collection and administration of the retail sales, use, and gross receipts tax, including provisions for liability, refund, penalty, interest or credit, govern the administration by the North Dakota Office of State Tax Commissioner (hereinafter "Tax Commissioner") of the taxes imposed by this Ordinance.

**Section 7:**

**Contract with Tax Commissioner.**

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

**Section 8**

**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 9:**

**Deduction to Reimburse Retailer for Administrative Expenses.**

1. The 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 10:**

**Dedication of Tax Proceeds.**

1. All revenues raised and collected under this ordinance shall be dedicated only to community development and infrastructure and economic development and infrastructure repairs and updates.

All revenue shall be maintained in the fund, to be known as the Wilton City Sales and Use Tax Fund, separate and apart from all other funds.

All revenue contained in such fund shall be used for:

- a) Twenty percent (20%) for capital improvements and equipment.
- b) Two and a half percent (2.5%) for city park maintenance.
- c) Twenty percent (20%) for economic development.
- d) Seven and a half percent (7.5%) for emergency fund for those items in which the city budget has already been exhausted. (i.e. snow removal and water line breaks).
- e) Fifty percent (50%) for infrastructure repairs and updates within the City of Wilton.

**Section 11:**

**Dispersal of Funds.**

Funds collected from the two percent (2%) sales tax may only be dispersed by the Wilton City Commission upon recommendation of the Wilton Sales and Use Tax Committee, the membership of which shall be as follows:

- a) Five (5) members that will serve four (4) year terms, except on the initial election when two (2) administrators will serve a two (2) year term and three (3) administrators will serve a four (4) year term, and hereafter to be elected in accordance with the general city elections. One (1) Sales and Use Tax Administrator may serve in a dual office as a Wilton City Commissioner. The Sales and Use Tax Administrators shall be the appointed Home Rule Commissioners until initial elections are held. Sales and Use Tax Administrators shall meet in accordance with the City Sales and Use Tax Ordinance and disperse funds as requested.

If a vacancy occurs in the membership of the Sales and Use Tax Committee, the Wilton City Commission shall appoint a person to fill such vacancy, provided such appointment does not violate the committee membership requirements, until the next city election, at which election the unexpired term shall be filled.

The City Commission shall accept the recommendation of the committee as to the utilization of these funds, provided the recommendations are for lawful purposes and in accordance with the terms of the ordinance.

Funds not dispensed each year shall accumulate in the sales and use tax fund and be allocated the following year or years in which justifiable products warrant.

All of the terms and provisions of the original Ordinance Relating to a Sales and Use Tax to the Home Rule Charter of the City of Wilton, not inconsistent with the above provisions, shall remain in full force and effect.

**Section 12:**

**Saving Clause.**

Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remainder of this ordinance shall not be affected thereby.

**Section 13**

**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 Sections 57-39.2-18(1) of the North Dakota Century Code. Such penalty may be imposed by the Municipal Court of the City of Wilton 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 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 provisions of this chapter of 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 14:**

**Effective Date.**

This Ordinance shall take effect after its passage, approval, and publication, but not prior to January 1, 2013.

Dated this 20 day of August, 2012.