

**THIS IS A DRAFT OF ORDINANCE AMENDMENTS TO BE PROPOSED AT THE AUGUST 7, 2023
WAITE PARK COUNCIL MEETING**

**CITY OF WAITE PARK
ORDINANCE NO. 2023-__**

**AN ORDINANCE AMENDING SECTION 85 OF THE WAITE PARK CITY CODE
CONCERNING A LOCAL SALES AND USE TAX**

The City Council of the City of Waite Park, Minnesota, ordains as follows (deletions are in ~~strikethrough~~, additions are underlined):

Section 85. - Local Sales and Use Tax.

Subd. 1. Authority. Pursuant to Minnesota Session Laws 2021, First Special Session, Chapter 14, Article 8, Section 20, as amended by Minnesota Session Laws 2023, Regular Session, Chapter 64, Article 10, Section 24 (as amended, the “Special Law”), the Minnesota Legislature has authorized the City of Waite Park, Minnesota (the “City”), in part, 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 up to \$20,000,000, plus an amount equal to interest and the costs of issuance of any bonds, for the payment of capital and administrative costs related to the funding of the Designated Projects (defined below).

Subd. 2. Definitions. For purposes of this Section 85 of the City Code of the City (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.

- A. City. “City” means the City of Waite Park, Minnesota.
- B. Commissioner. “Commissioner” means the Commissioner of Revenue of the State of Minnesota or a person to whom the Commissioner of Revenue has delegated functions.
- C. Designated Projects. “Designated Projects” means the construction and equipping of a new public safety facility in the City, as authorized by the Minnesota Legislature in the Special Law and approved by the voters at the November 8, 2022, referendum.
- D. Special Law. “Special Law” means Minnesota Session Laws 2021, First Special Session, Chapter 14, Article 8, Section 20, as amended by Minnesota Session Laws 2023, Regular Session, Chapter 64, Article 10, Section 24.
- E. 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, and 297A, and Minnesota Rules, Chapter 8130, as amended from time to time.

Subd. 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 (0.50%) on the gross receipts from sales at retail sourced within city limits of the City that are

**THIS IS A DRAFT OF ORDINANCE AMENDMENTS TO BE PROPOSED AT THE AUGUST 7, 2023
WAITE PARK COUNCIL MEETING**

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.

Subd. 4. 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 April 1, 2023. The local sales and use tax imposed by this Section 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, 2023, and that delivery of the tangible personal property subject thereto is made on or before April 1, 2023.
- 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, 2023, and that delivery of the tangible personal property used in performing such construction contract is made before October 1, 2023.
- C. The purchase of taxable services, including utility services, if the billing period includes charges for services furnished before and after April 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 April 1, 2023.
- D. Lease payments for tangible personal property and motor vehicles that includes a period before and after April 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 April 1, 2023 and on the entire lease payment for all lease payment periods thereafter.

Subd. 5. 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 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.
- B. 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,

**THIS IS A DRAFT OF ORDINANCE AMENDMENTS TO BE PROPOSED AT THE AUGUST 7, 2023
WAITE PARK COUNCIL MEETING**

(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 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.

Subd. 6. Deposit of revenues; costs of administration; termination of tax.

- A. 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 by the Finance Director of the City 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.
- B. The local sales and use tax imposed by this Section shall terminate at the earlier of: (1) ~~October 17~~~~January 23~~, 2037; or (2) when the City Council determines that \$20,000,000, plus an amount equal to interest and the costs of issuance of any 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; provided that if the termination date falls on a date other than the last day of a calendar quarter, the local sales and use tax will continue in effect until the end of that calendar quarter in accordance Minnesota Statutes, Section 297A.99, Subdivision 12. 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.

Subd. 7. 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.

Subd. 8. 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

**THIS IS A DRAFT OF ORDINANCE AMENDMENTS TO BE PROPOSED AT THE AUGUST 7, 2023
WAITE PARK COUNCIL MEETING**

the City Council, this summary shall be published in the City’s official newspaper in lieu of publishing the entire ordinance pursuant to Minnesota Statutes section 412.191:

Pursuant to a voter-approved referendum, the City ~~is~~has previously authorized ~~to~~ and ~~will~~imposed a local sales and use tax of one-half of one percent (0.50%) on retail sales made after April 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 and equipping of a new public safety facility in the City. Pursuant to additional authority granted by state law, the City has extended the termination date of that local sales and use tax until the earlier of (i) October 17, 2037; or (2) when the City Council determines that \$20,000,000, plus an amount equal to interest and the costs of issuance of any bonds has been received from the local sales and use tax to pay for all the capital and administrative costs directly related to completing the Designated Projects.

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 Waite Park shall be effective upon its approval and publication.

ADOPTED by the City Council this, this ____ day of _____, 2023.

Ayes:

Nays:

Rick Miller, Mayor

ATTEST:

Adrianna Brenny
City Clerk