

**CARLTON COUNTY**

**ORDINANCE #38**

**SALES & USE TAX**



**Adopted: December 13, 2022**

## **CARLTON COUNTY ORDINANCE #38**

### **SALES AND USE TAX**

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The Board of Commissioners of the County of Carlton hereby ordains:

Carlton County will implement a new one half of one percent (.5%) sales and use tax beginning April 1, 2023 in addition to the existing one half of one percent (.5%) transit sales and use tax and \$20 Vehicle Excise tax both implemented April 1, 2015.

### **Sales and Use Tax.**

**Section I: Authority.** At the general election held November 8, 2022, the voters of Carlton County approved the imposition of a one-half of one percent local option sales and use tax to finance all associated costs of constructing and financing a new Justice Center.

The Minnesota legislature has, by the laws of Minnesota for 2021, 1st Special Session, Chapter 14, Article 8, Section 3, Special Session, authorized the County to impose an additional sales and use tax within the County to provide revenues to finance the costs of a new building referred to as the Justice Center, consisting of a law enforcement center, judicial center, and jail. The amount of revenue from the tax imposed that may be used to finance the construction and any associated costs including financing is limited to \$60,000,000.00 plus an amount sufficient to pay costs related to issuance of any bonds including interest on the bonds. The County approved the act in accordance with applicable law.

**Section II: Definitions.** The words, terms and phrases used in this ordinance shall have the meaning ascribed to them in Minnesota Statutes § 297A except where the context clearly indicates otherwise. In addition, the following definitions shall apply:

- A. **“Act”** shall mean the laws of Minnesota for 2021, Chapter 14, Article 8, Section 3, or as may be amended.
- B. **“County”** shall mean the County of Carlton.
- C. **“Commissioner”** shall mean the Commissioner of Revenue for the State of Minnesota acting under the authority of an agreement entered into between the County and the State of Minnesota pursuant to the act, or such other person or entity designated to administer and collect the County tax.
- D. **“Auditor/Treasurer”** shall mean the Auditor/Treasurer of the County.
- E. **“Retailer Maintaining a Place of Business in the County or any like term”** shall mean any retailer having or maintaining within the County, directly or by a subsidiary or an affiliate, an office, place of distribution, sales or sample room or place, warehouse or other place of business, or having any representative, including an affiliate, agent, salesperson, canvasser or solicitor operating in the

County under the authority of the retailer or its subsidiary, for any purpose, including the repairing, selling delivering, installation, or soliciting of order of the retailer's goods or services, or the leasing of tangible personal property located in the County, whether the place of business or agent, representative, affiliate, salesperson, canvasser, or solicitor, is located in the County permanently or temporarily, or whether or not the retailer or subsidiary is authorized to do business within the County. The tax is applicable to taxable services performed in Carlton County or shipped or delivered tangible person property into Carlton County.

- F. **“Carlton County Sales and Use Tax”** shall mean the local option one half of one percent (.5%) imposed and collected pursuant to this ordinance.

**Section III: Sales and Use Tax.** Except as otherwise provided in this ordinance, there is hereby imposed, in addition to the existing transit tax, an additional sales and use tax in the amount of one-half of one percent of the gross receipts from the sales at retail, and the storage, use, distribution or consumption of goods or services which are taxable, pursuant to Minnesota Statutes, Chapter 297A and occur within the County. The imposition, administration, collection and enforcement of this tax shall be governed by the provisions of Minnesota Statute Chapters 297A, 270C, and 289A.

**Section IV: Separate Statement; Collection from Purchaser, Advertising No Tax, Minimum Uniform Tax Collection Methods.** The Carlton County sales and use tax shall be stated and charged separately from the sales price or charge for service insofar as practical, and should be a debt from the purchaser to the seller recoverable at law in the same manner as other debts. In computing the tax to be collected as a result of any transaction, any amount of tax less than one-half of one cent may be disregarded and amounts of tax one-half cent or more may be considered an additional cent. If the sales price of any sale at retail is ninety-nine cents or less, no tax shall be collected.

**Section V: Exemption Certificates.** A fully completed exemption certificate taken 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 tax imposed by this ordinance will conclusively relieve the retailer from collecting and remitting the tax to the extent the seller is also relieved of liability for the sales and use tax under Minnesota Statutes §297A.665. A person who has obtained from the Commissioner an exemption certificate pursuant to the Minnesota Statute §297A may use such exemption certificate for the purposes of the sales tax imposed by the County.

**Section VI: Presumption of Purpose of Sale.** For the purpose of the proper administration and enforcement of Section III of this Ordinance, it shall be presumed that all retail sales for delivery in the County are for storage, use, or other consumption in the County until the contrary is established.

**Section VII: Collection of Sales and Use Tax at Time of Sale.**

- A. Any retailer making deliveries within the County, any retailer maintaining a place of business in the County, or any other retailer otherwise doing business within the County, upon making sales of any items described in 3.4.02, Subd. 3 which are not exempted from the sales tax imposed under that ordinance and which are to be delivered or caused to be delivered within the County to the purchaser, shall at the time of making such sales collect the sales and use tax from the purchaser. The tax collected by such retailer shall be remitted to the Commissioner on behalf of the County.
- B. Any retailer required to collect the Carlton County sales and use tax and remit such tax to the Commissioner pursuant to this ordinance shall register with the Commissioner and provide such other information as the Commissioner may require.

**Section VIII: Agent of Retailer.** When in the opinion of the Commissioner it is necessary for the efficient administration of the tax, the Commissioner may regard any salesperson, representative, trucker, peddler, or canvasser as the agent of the dealer, distributor, supervisor, employer or other person under whom such salesperson, representative, trucker, peddler or canvasser operated or from whom the tangible property is being sold is obtained, and may regard the dealer, distributor, supervisor, employer or other person as a retailer for the purposes of this ordinance.

**Section IX: Effective Date, Transitional Sales.** Except as otherwise provided herein, the Carlton County local option sales and use tax authorized by this ordinance shall apply to sales made on or after April 1, 2023 and shall be in addition to all other taxes now in effect including the Carlton County Transit sales and use tax. The Carlton County sales and use tax shall not apply to the following:

- A. The gross receipts from the purchase or lease of tangible personal property made under an enforceable contract entered into before April 1, 2023, provided that delivery or possession of items is taken on or before June 1, 2023.
- B. The gross receipts from the purchase of taxable services, including utility services, if billing period includes charges for services furnished before and after April 1, 2023. However, the sales and use tax shall apply to all purchases of taxable services, including utility services, if the billing period begins with services furnished on or after April 1, 2023.
- C. The gross receipts from the purchase of construction materials used to complete a lump sum or fixed price construction contract that was signed and enforceable before April 1, 2023, and that does not provide for an allocation of future taxes, provided that the

construction materials are used exclusively in performing the contract and the materials are delivered before September 1, 2023.

**Section X: Collection and Enforcement.** The Carlton County local option sales and use tax imposed by the County pursuant to this ordinance shall be subject to the same interests, penalties, and other rules as are applicable to the State general sales tax imposed by Minnesota Statutes Chapter 289A and 297A. The Carlton County local option sales and use tax imposed by the County pursuant to this ordinance may be collected by the State on behalf of the County as provided by an appropriate agreement with the Minnesota Commissioner or Revenue. The Carlton County local option sales and use tax imposed by the County pursuant to the ordinance shall expire the earlier of 30 years after the tax is first imposed or upon a determination by the Carlton County Board that sufficient funds have been received from the taxes to finance construction and financing costs and to prepay or retire at maturity the principle, interest, and premium due on any bonds, including refunding bonds, issued by County of Carlton; or, a maximum collection of \$60,000,000.00 plus an amount sufficient to pay costs related to issuance of any bonds authorized including interest on the bonds. Any funds remaining after completion of construction and retirement or redemption of the bonds may be placed in the General Fund of the County of Carlton.

**Section XI: Tax Clearance; Issuance of Licenses.** The County may not issue or renew a license for the conduct of trade or business in the County if the Commissioner notifies the County that the applicant for such license owes delinquent Carlton County local option sales and use taxes as provided in this chapter, or penalties or interest due on such taxes. For the purposes of this ordinance, the following terms have the following meanings:

- A. Carlton County sales and use taxes include sales and use tax as provided in this ordinance including all penalties and interest due on said sales and use taxes.
- B. Delinquent taxes do not include a tax liability if:
  - 1. In administrative or court action which contests the amount or validity of the liability has been filed or served;
  - 2. The appeal period to contest tax liability has not expired; or
  - 3. The applicant has entered into a payment agreement and is current with the payments.
- C. Applicant shall mean an individual if the license is issued to or in the name of an individual or the corporation, partnership or other entity if the license is issued to or in the name of a corporation, partnership or other entity.

- D. A copy of the notice of delinquent taxes given to the County shall also be sent to the applicant taxpayer. In the case of renewal of a license, if the applicant requests a hearing in writing, within thirty (30) days of the receipt of the notice of delinquent taxes, then a contested case hearing shall be held by the Commissioner under the same procedures as provided in Minnesota Statutes, Section 270C.72 for the State sales and use tax imposed under Minnesota Statutes, Chapter 297A, provided that if a hearing must be held on the State sales and use tax, hearings may be combined.

**Section XII: Termination of Taxes.** The taxes imposed expire at the earlier of (1) 30 years, or (2) when the County Board determines that the amount of revenues received from the taxes to finance the construction first equal or exceeds \$60,000,000.00, plus additional amounts needed to pay the costs related to issuance of bonds, including interest on the bonds. Any funds remaining after completion of the project and retirement or redemption of the bonds may be placed in the general fund of the County. The taxes imposed may expire at an earlier time if the County so determines by ordinance.

**Ordinance Effective Date.** This ordinance shall take effect and be in force from and after its passage and publication in accordance with law.

Passed this 13<sup>th</sup> day of December 2022.

CARLTON COUNTY

By \_\_\_\_\_  
County Board Chair Gary Peterson

ATTEST:

\_\_\_\_\_  
Kevin DeVriendt  
County Auditor/Treasurer

Published this \_\_\_\_\_ day of \_\_\_\_\_, 2022.