

Upon motion made by Waldera and seconded by Wenande, it was moved that the following Ordinance be adopted:

ORDINANCE NO. 323  
AN ORDINANCE TO IMPOSE A STANDARD TWO PERCENT (2%) SALES TAX  
RATE WITHIN THE CITY OF ALEXANDRIA, SOUTH DAKOTA

BE IT ORDAINED by the City of Alexandria, South Dakota, that:

- (1) Purpose. The purpose of this ordinance is to provide needed revenue for the municipality of Alexandria, Hanson County, South Dakota, by imposing a municipal retail sales and use tax pursuant to the powers granted to the municipality by the State of South Dakota, by SDCL 10-52 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts supplemental thereto and amendatory thereof.
- (2) Effective Date And Enactment of Tax. From and after the first day of January, 2004, there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business within the jurisdiction of the municipality of Alexandria, Hanson County, South Dakota, who are subject to the South Dakota Retail Occupational Sale and Service Tax, SDCL 10-45, and acts amendatory thereto. Tax will not be applied to items specifically exempt under SDCL 10-52-2.9, 10-52-11 and 10-52-12. Items exempted from municipal tax include: Farm Machinery, Agricultural Animal Health Products and Medicine, Transportation Service, Collection and disposal of Solid Waste, Veterinarian and Animal Specialty Services, and Air Transportation.
- (3) Use Tax. In addition there is hereby imposed an excise tax on the privilege of use, storage, and consumption within the jurisdiction of the municipality of tangible personal property or services purchased from and after the first of January, 2004, at the same rate as the municipal sales and service tax upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax Act, SDCL 10-46, and acts amendatory thereof.
- (4) Rate of Tax. The rate of tax shall be two (2%) percent on all taxable transactions.
- (5) Collection. Such tax is levied pursuant to authorization granted by SDCL 10-52 and acts amendatory thereto, and shall be collect by the South Dakota Department of Revenue and Regulations of the State of South Dakota shall lawfully prescribe.
- (6) Interpretation. It is declared to be the intention of this ordinance and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and

Service Act, SDCL 10-45 and acts amendatory thereof and supplemental thereto and the South Dakota Use Tax, SDCL 10-46 and acts amendatory thereof and supplemental thereto, and that this shall be considered a similar tax except for the rate of that tax.

- (7) Penalty. Any persons failing or refusing to make reports or payments prescribed by this ordinance and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$200 dollars or imprisoned in the municipal jail, or such facility as the City has made arrangements for the use of, for thirty (30) days or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL 10-45, and acts amendatory thereto, and SDCL 10-46, and acts amendatory thereto are hereby authorized for the collection of these excise taxes by the Department of Revenue and Regulation.
- (8) Repealer. Any and all municipal ordinances nib conflict herewith are hereby repealed as of midnight, December 31, 2003 to the extent of such conflict, specifically including, but not necessarily limited to Ordinance No. 270 and Ordinance No. 285.
- (9) Separability. If any provision of this Ordinance is declared unconstitutional or invalid or the application thereof to any person or circumstances held invalid the constitutionality and validity of the remainder of the ordinance and applicability thereof to other persons or circumstances shall not be affected thereby.

JUSTIFICATION FOR ORDINANCE:

The City Council finds that:

- A. It is the intention and purpose of the City Council to the City of Alexandria to continue to levy and impose the two (2%) percent Non-Ad Valorem or sales tax, in full compliance with the laws of the state of South Dakota;
- B. The continued levy and collection of the sales tax by the City of Alexandria is necessary and essential for the operation of city services and operations;
- C. The City has outstanding bonds and obligations which are secured directly or indirectly by the proceeds of the sales tax has been pledged for the payment thereof which does not allow the city to change the rate of collection until such time as the bonds are paid in full or legally defeased.
- D. South Dakota State Legislature enacted two measures during its Seventy-Seventh session affecting the Municipal Sales Tax; and

- E. House Bill 1001 entitled an Act To Ratify The Uniform Sales And Use Tax Administration Act, To Implement The Uniform And Simplified Features Proposed By The Streamlined Sales Tax Project, And To Declare An Emergency was passed by the South Dakota State Legislature and signed into law by the Governor; and
- F. Senate Bill 76 entitled An Act To Bring The State Into Compliance With The Streamline Sales Tax Agreement has also become law; and
- G. The State of South Dakota has adopted, effective July 1, 2003, SDCL 10-45C, which is the “Uniform Sales and Use Tax Administration Act”;
- H. This action by the State, and other actions and laws changed to support that, require that the City adopt one uniform tax rate;
- I. The City of Alexandria is required to have the same exemptions as the State has in its sales tax provisions;
- J. There is a requirement to have these changes done and adopted prior to October 1, 2003, if the municipality is to have its sales or Non-Ad Valorem tax continue after December 31, 2003;
- K. Pursuant to the above mentioned acts, the governing board of the municipality has reviewed the existing tax ordinance to determine compliance with the Acts; and
- L. The City’s amendments and adjustments to its Non-Ad Valorem or sales tax must be “revenue neutral”;
- M. As the State Department of Revenue calculated the City of Alexandria’s sales tax on general sales and food sales for fiscal year 2002, the City’s adjusted tax rate was 1.98%;
- N. Collecting fractional sales tax is impractical;
- O. By adopting a level or even 2% tax rate, the City would increase total sale tax collected, based upon the latest available figures, by the amount of approximately \$600.00 per year;
- P. The City Council does hereby find that this \$600.00 approximate change is in effect “revenue neutral” and that a two (2%) percent level tax rate within the municipality would be appropriate and in the best interests of the citizens and residents of the City of Alexandria;
- Q. Ordinance 323 has been introduced and passed by the governing board of the municipality; and

R. The Above-mentioned ordinance is an administrative act intended to comply with House Bill 1001 and Senate Bill 76.

Dated this 4<sup>th</sup> day of August, 2003

Ordinance adopted.

Lyle Weber, Mayor

Attest: Janice Wolf, Finance Officer

First reading: August 4, 2003  
Second reading: September 1, 2003  
Published : September 4, 2003  
Effective date: September 25, 2003  
(20 days after publication)

Votes for: 6 Votes against: 0