

ORDINANCE NO. 745

AN ORDINANCE CALLING A SPECIAL ELECTION IN THE CITY OF MONTICELLO, ARKANSAS, ON THE QUESTION OF LEVYING A ONE PERCENT SALES AND USE TAX WITHIN THE CITY OF MONTICELLO, ARKANSAS; DEFINING THE TERM "SINGLE TRANSACTION;" PRESCRIBING OTHER MATTERS PERTAINING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the City Council of the City of Monticello, Arkansas (the "City"), has passed on June 21, 2007, Ordinance No. 745 providing for the levy of a one percent (1%) sales and use tax within the City (the "Sales and Use Tax"); and

WHEREAS, the Sales and Use Tax shall be levied and collected on the gross receipts, gross proceeds, or sales price from each single transaction on the maximum amount allowed from time to time under Arkansas law; and

WHEREAS, the purpose of this Ordinance is to call a special election on the question of the levy of the Sales and Use Tax, and to define the term "single transaction;"

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Monticello, Arkansas:

Section 1. That there be, and there is hereby called, a special election to be held on August 14, 2007, at which election there shall be submitted to the electors of the City the question of the levy of the Sales and Use Tax.

Section 2. That the question of levying the Sales and Use Tax shall be placed on the ballot for the election in substantially the following form:

Vote on measure by placing an "X" in the square opposite the measure either for or against:

FOR adoption of a 1% local sales and use tax within the City of Monticello, Arkansas.....

AGAINST adoption of a 1% local sales and use tax within the City of Monticello, Arkansas.....

The sales and use tax shall be levied and used for (a) financing public infrastructure, capital improvements, youth activities and economic development and for other lawful purposes, and (b) providing for the securing and repayment of bonds approved by the voters and issued from time to time by the City to fund capital improvements. The sales and use tax shall go into effect following the expiration or termination of the existing City sales and use tax. The sales and use tax shall expire on December 31, 2022 so long as any bonds to which such tax has been pledged have been fully retired or funds are available for their retirement, and if such bonds have not been retired on the earliest date on which such tax can be terminated.

Section 3. That the election shall be held and conducted and the vote canvassed and the results declared under the law and in the manner now provided for municipal elections unless otherwise provided in Title 26, Chapter 75, Subchapter 2 of the Arkansas Code of 1987 Annotated (the "Authorizing Legislation") and only qualified voters of the City shall have the right to vote at the election.

Section 4. That the results of the election shall be proclaimed by the Mayor, and his Proclamation shall be published one time in a newspaper published in the City and having a general circulation therein, which Proclamation shall advise that the results as proclaimed shall be conclusive unless attacked in the courts within thirty days after the date of publication.

Section 5. That a copy of this Ordinance shall be given to the Drew County Board of Election Commissioners so that the necessary election officials and supplies may be provided. A certified copy of this Ordinance shall also be provided to the Commissioner of Revenues of the State of Arkansas as soon as practical.

Section 6. That the Mayor and City Clerk, for and on behalf of the City, be, and they are hereby authorized and directed to do any and all things necessary to call and hold the special election as herein provided and, if the levy of the Sales and Use Tax is approved by the electors, to cause the Sales and Use Tax to be collected in accordance with the Authorizing Legislation, and to perform all acts of whatever nature necessary to carry out the authority conferred by this Ordinance.

Section 7. "Single transaction" is defined according to the nature of the goods purchased as follows:

A. When two or more devices in which, upon which or by which any person or property is, or may be, transported or drawn, including but not limited to, on-road vehicles, whether required to be licensed or not, off-road vehicles, farm vehicles, airplanes, water vessels, motor vehicles or non-motorized vehicles and mobile homes, are sold to a person by a seller, each individual unit, whether part of a "fleet" sale or not, shall be treated as a single transaction for the purpose of the Sales and Use Tax.

B. The charges for utility services, which are subject to the Sales and Use Tax, and which are furnished on a continuous service basis, whether such services are paid daily, weekly, monthly or annually, for the purposes of the Sales and Use Tax, shall be computed in daily increments, and each such daily charge increment shall be considered to be a single transaction for the purposes of the Sales and Use Tax.

C. For sales of building materials and supplies to contractors, builders or other persons, a single transaction, for the purposes of the Sales and Use Tax, shall be deemed to be any single sale which is reflected on a single invoice, receipt or statement, on which an aggregate sales (or use) tax figure has been reported and remitted to the State of Arkansas.

D. When two or more items of major household appliances, commercial appliances, major equipment and machinery are sold, each individual unit shall be treated as a single transaction for the purposes of the Sales and Use Tax.

E. For groceries, drug items, dry goods and other tangible personal property and/or services not otherwise expressly covered in this Section, a single transaction shall be deemed to be any single sale which is reflected on a single invoice, receipt or statement, on which an aggregate sales tax figure has been reported and remitted to the State of Arkansas.

In the event the Arkansas General Assembly shall define "single transaction," the General Assembly's definition shall replace the definition set forth herein.

Section 8. That all ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 9. It is hereby ascertained and declared that there is a great need to establish a stable source of revenue to finance vital municipal services in order to promote and protect the health, safety and welfare of the City and its inhabitants. It is, therefore, declared that an emergency exists and this Ordinance being necessary for the immediate preservation of public peace, health and safety shall be in force and take effect immediately from and after its passage.

PASSED: June 21, 2007.

APPROVED:

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

(SEAL)

CERTIFICATE

The undersigned, City Clerk of the City of Monticello, Arkansas, hereby certifies that the foregoing pages are a true and perfect copy of Ordinance No. 745, passed at a regular session of the City Council, held at the regular meeting place of the City Council at 6:00 o'clock p.m., on the 21<sup>st</sup> day of June, 2007, and that the Ordinance is of record in Ordinance Record Book No. 4, Page N/A, now in my possession.

GIVEN under my hand and seal this 21 day of June, 2007.

  
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City Clerk