

ORDINANCE NO. 147

AN ORDINANCE PROVIDING FOR A SECOND ONE PERCENT SALES TAX FOR THE TOWN OF EGAN, SOUTH DAKOTA.

BE IT ORDAINED BY THE TOWN OF EGAN, MOODY COUNTY, SOUTH DAKOTA:

SECTION 1. PURPOSE. The purpose of this Ordinance is to provide funds to be used only for minor rehabilitation, major rehabilitation or reconstruction of streets as defined in the June, 1994 South Dakota Department of Transportation Pavement Condition Survey Guide for City Streets by imposing an additional one percent municipal retail sales and service tax and a use tax as authorized by the State of South Dakota pursuant to SDCL Chapter 10-52 as amended.

SECTION 2. EFFECTIVE DATE. From and after 12:01 a.m. on the 1st day of January, 1998 there is hereby imposed a municipal non-ad valorem retail, occupational sales and service tax upon the privilege of engaging in business of an additional one percent on the gross receipts of all persons engaged in business within the jurisdiction of the Town of Egan, Moody County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax imposed under SDCL Chapter 10-45, and acts amendatory thereto.

SECTION 3. USE TAX. In addition, there is hereby imposed an excise tax on the privilege of the use, storage and consumption within the jurisdiction of the Town of tangible personal property purchased from and after the 1st day of January, 1998, at the same rate as the municipal sales and service tax as provided in SECTION 2 upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax Act, SDCL 10-46, and acts amendatory thereto.

SECTION 4. COLLECTION. Such tax is levied pursuant to authorization granted by SDCL 10-52 and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue in accordance with the same rules and regulations applicable to the state sales tax and under such additional rules and regulations as the secretary of revenue of the State of South Dakota shall lawfully prescribe, and all exemptions provided for by South Dakota State Law shall apply.

SECTION 5. INTERPRETATION. It is declared to be the intention of this section 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 thereto and the South Dakota Use Tax, SDCL 10-46 and acts amendatory thereto, and that this shall be considered a similar tax except for the rate of that tax.

SECTION 6. PENALTY. Any person failing or refusing to make reports or payments prescribed by this section and the rules and regulations relating to the ascertainment

and collection of the tax herein levied shall be guilty of a violation of a town ordinance and, upon conviction, shall be fined not more than two hundred dollars (\$200.00). In addition, all such collection remedies authorized by SDCL 10-45, and acts amendatory thereof, and SDCL 10-46, and acts amendatory thereto, are hereby authorized for the collection of these excise taxes by the department of revenue.

SECTION 7. SEPARABILITY. If any provision of this section is declared unconstitutional or the application thereof to any person or circumstances held invalid, the constitutionality of the remainder of the section and applicability thereof to other persons or circumstances shall not be affected thereby.

Adopted by the Board of the Town of Egan, South Dakota on this 27 day of August, 1997.

Don Schroeder
President

ATTEST:

Eda Mae Hasek
City Finance Officer

FIRST READING: 8-13-97
SECOND READING: 8-27-97
ADOPTED: 8-27-97
PUBLISHED: 8-3-97