

ORDINANCE NO. 12-11

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note*

CITY OF DIAMOND CITY, BOONE COUNTY, STATE OF ARKANSAS:

Amend 13-11

AN ORDINANCE CALLING A SPECIAL ELECTION IN THE CITY OF DIAMOND CITY, ARKANSAS, ON THE QUESTION OF LEVYING A ONE PERCENT (1%) SALES AND USE TAX WITHIN THE CITY OF DIAMOND CITY, ARKANSAS; DEFINING THE TERM "SINGLE TRANSACTION"; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO,

WHEREAS, the City Council of the City of Diamond City, Arkansas (the "City") has passed on the 12th day of August, 2011, Ordinance No. 12- 11 providing for the levy of a one percent (1%) sales and use tax within the City (the "Sales and Use Tax") for use by the general fund for the benefit of the Police Department; and,

WHEREAS, the Sales and Use Tax shall be levied and collected only on the first \$2,500.00 of gross receipts, gross proceeds or sales price from each single transaction; 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.

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

Section 1. That there be, and there is hereby called, a special election to be held on the 11th day of October, 2011, 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 same form:

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

1% SALES AND USE TAX

FOR adoption of a one percent (1.0%) local sales and use tax within Diamond City, Arkansas.....[]

AGAINST adoption of a one percent (1.0%) local sales and use tax within Diamond City, Arkansas.....[]

Section 3. The Sales and Use Tax shall be levied and collected only on the first \$2,500.00 from each single transaction. "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 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 or 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.

Section 4. 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 5. The results of the election shall be proclaimed by the Mayor, and her 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 challenged in the circuit court of the county within thirty (30) days of the date of publication of the Proclamation.

Section 6. A copy of this Ordinance shall be given to the Boone 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 at the State of Arkansas as soon as practical.

Section 7. The Mayor and Town Recorder, 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 in a timely fashion to carry out the authority conferred by this Ordinance.


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

Emergency Clause:

For the benefit and safety of the citizens of Diamond City, the Diamond City City Council hereby declares an emergency to exist and calls for a special election, this ordinance to go into effect immediately.

 5 Ayes, 0 Nays, 1 , Absent 0 , Abstain

PASSED AND APPROVED this 12th day of August, 2011.

APPROVED: 
Shari Marshall, Mayor

ATTEST: 
Cheryl Guthrie, Recorder

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF BOONE

We, Shari Marshall and Cheryl Guthrie, do solemnly swear that as Mayor and City Recorder/Treasurer, respectively, of and for the City of Diamond City, Boone County, Arkansas, that a certified copy of Ordinance No. 12 - 11 was, on the 13th day of August, 20 11, duly posted in five separate and distinct places inside the corporate limits of the Town in accordance with Ordinance No. 03 - 10 of the City, and that the above listed Ordinance remains posted for thirty (30) days.

Dated this 14th day of September, 20 11.


Cheryl Guthrie, Recorder/Treasurer


Shari Marshall, Mayor