

ORDINANCE NO. 307

AN ORDINANCE CALLING A SPECIAL ELECTION IN THE CITY OF BARLING, ARKANSAS ON THE QUESTION OF LEVYING A ONE PERCENT SALES AND USE TAX FOR MAINTENANCE, OPERATION AND EXPENSES OF THE FIRE DEPARTMENT WITHIN THE CITY OF BARLING, ARKANSAS; PRESCRIBING OTHER MATTERS PERTAINING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the Board of Directors of the City of Barling, Arkansas (the "City") has passed on July 22, 2003, Ordinance No. 306 providing for the levy of a one percent (1%) sales and use tax within the City (the "Sales and Use Tax"); 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 AND ENACTED by the Board of Directors of the City of Barling, Arkansas:

Section 1. That there be, and there is hereby called, a special election to be held on September 9, 2003, at which election there shall be submitted to the electors of the City the 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 Barling to be used for maintenance, operation, and expenses of the Fire Department and for a source of revenue to finance such services to expire at the end of ten (10) years from its effective date  
□

AGAINST adoption of a 1% local sales and use tax within the City of Barling to be used for maintenance, operation, and expenses of the Fire Department and for a source of revenue to finance such services to expire at the end of ten (10) years from its effective date  
□

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 challenged in the courts within thirty days after the date of publication.

Section 5. That a copy of this Ordinance shall be given to the Sebastian 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. That all ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 8. Pursuant to Act 565 of 1995, the Sales and Use Tax shall be effective as of January 1, 2004.

Section 9. Under the authority of the Authorizing Legislation, Ordinance No. 306 levied a one percent (1%) tax on the gross receipts from the sale at retail within the City of all items which are subject to the Arkansas Gross Receipts Tax Act of 1941, as amended (A.C.A. §26-52-101, et seq.), and the imposition of an excise (or use) tax on the storage, use or other consumption within the City of tangible personable property subject to the Arkansas Compensating Tax Act of 1949, as amended (A.C.A. §26-53-101, et seq.), at a rate of one percent (1%) of the sale price of the property or, in the case of leases or rentals, of the lease or rental price (collectively, the "Sales and Use Tax"). The Sales and Use Tax shall be levied and collected only to a maximum tax of \$2,500.00 for each single transaction.

Section 10. "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 person, a single transaction, for the purposes of the Sales and Use Tax, shall be deemed to be any single sale made on a single day 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 intangible personal property and/or services not otherwise expressly covered in this Section, a single transaction shall be deemed to be any single sale made on a single day 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 11. 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 from and after its passage.

PASSED: July 22, 2003

ATTEST:

Candy Walker  
City Clerk



Jeffy Barling  
Mayor