



City of Grand Island

Tuesday, March 12, 2019

Council Session

Item F-1

**#9723 - Consideration of Repealing Grand Island City Code
Chapter 22, Sections 147 to 158 Relative to Annual Motor Vehicle
Fee (Wheel Tax)**

Staff Contact: Councilmember Chuck Haase

Council Agenda Memo

From: Jerry Janulewicz, City Attorney

Meeting: March 12, 2019

Subject: Ordinance to Repeal the Annual Motor Vehicle Fee

Presenter(s): Jerry Janulewicz, City Attorney

Background

On August 29, 2017, the City enacted Ordinance 9646 imposing an annual motor vehicle fee on motor vehicles owned by persons and businesses located within the city and operated within the city. The fee schedule established by Ordinance 9646 was amended on January 9, 2018 by enactment of Ordinance 9672, changing the fee for pick-up trucks registered as 5 ton combined weight or less, and it included “autocycles”, which are three-wheeled vehicles equipped with roll bars, air bags, and seat belts. Ordinance 9672 also included provisions for partial refunds of the motor vehicle fee if paid at the higher rate prior to the effective date of the new fee schedule.

By statute, proceeds received from a city-enacted motor vehicle fee are required to be devoted to constructing, repairing, maintaining, or improving streets, roads, alleys, public ways, or parts thereof, or for the amortization of bonded indebtedness when created for such purposes.

Discussion

Councilmember Haase requested that an ordinance to repeal the annual motor vehicle fee (also known as a “wheel tax”) be placed upon the council agenda. The motor vehicle fee generates city revenue of \$100,000 per month. The fee is included on the annual vehicle registration renewal notices sent by the Nebraska Department of Revenue to vehicle owners, and is paid to the County Treasurer together with state and local motor vehicle registration fees. The fees collected by the County Treasurer, less a statutory collection fee, are transmitted to the City. The motor vehicle fee will terminate on September 30, 2019 unless earlier terminated or extended.

If an ordinance of repeal is adopted on March 12, 2019, the Nebraska Department of Motor Vehicles will implement this change effective for registrations due on or after May 1, 2019. If an ordinance of repeal is adopted at a later date, the effective date of repeal would be June 1, 2019 or later.

An ordinance to repeal the motor vehicle fee effective May 1, if adopted, will result in \$400,000 less than would otherwise be received. Although the lost revenue will be replaced by the increased sales tax received in the current fiscal year, the City will have \$400,000 less revenue to carry forward into the next fiscal year. That \$400,000 would be available for city street projects funded solely with local funds. That same \$400,000, if leveraged with federal funds at an 80% federal 20% local contribution, would fund \$2,000,000 in street projects.

Conclusion

Because a repeal of the motor vehicle fee will result in a diminution of revenues, City Administration takes a neutral position on adoption of the proposed ordinance.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

Sample Motion

Move to approve the ordinance.

ORDINANCE NO. 9723

An ordinance to repeal Chapter 24, Article VIII, Sections 22-147 through 22-158, inclusive, of the Grand Island City Code; to repeal any ordinance or parts of ordinances in conflict herewith; to provide for the effective date of this ordinance; and to provide for publication.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA:

SECTION 1. Chapter 24, Article VIII, Sections 22-147 through 22-158, inclusive, of the Grand Island City Code are hereby repealed effective May 1, 2019.

~~ARTICLE XIII~~

~~ANNUAL MOTOR VEHICLE FEE~~

~~§22-147. Definitions~~

- ~~1) For the purpose of this article, the following definitions shall prevail, unless the context otherwise requires:~~
- ~~a) *Business* — Business shall mean any corporation, partnership, limited liability company, sole proprietorship, firm, cooperative, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, activity, or entity.~~
 - ~~b) *Construction* — Construction shall include the inspecting, designing, actual building and expenses, including the cost of rights of way incidental to the construction of a street.~~
 - ~~c) *Maintain* — Maintain shall include all work, materials, and repairs necessary to keep streets, roads, alleys, public ways, or parts thereof in proper and sound condition, and shall also include the removal of snow and ice therefrom.~~
 - ~~d) *Person* — Person shall include every natural person, firm, partnership, association, or corporation.~~
 - ~~e) *Place of Business* — Place of Business shall mean a fixed physical location owned, leased, or otherwise occupied by a business at which the activities of the business are conducted.~~
 - ~~f) *Reside* — Reside shall mean having a fixed place of abode occupied or intended to be occupied consistently over a substantial period of time and which is permanent rather than temporary.~~
 - ~~g) *Resurfacing* — Resurfacing shall mean and include the widening or rebuilding of the street or any portion thereof.~~
 - ~~h) *Street Improvement* — Street improvement shall include constructing, resurfacing, maintaining, or improving streets, roads, alleys, public ways, or parts thereof, or for the amortization of bonded indebtedness when created for such purposes.~~

Approved as to Form	<input type="checkbox"/>	_____
March 7, 2019	<input type="checkbox"/>	City Attorney

ORDINANCE NO. 9723 (Cont.)

- 2) ~~For purposes of this article, the terms motor vehicle, motorcycle, passenger car, farm truck, mini truck, bus, commercial vehicle, recreational vehicle, and dealer shall have such meanings as found in Nebraska Revised Statutes Chapter 60, Article 3.~~

~~§22-148. Assessment Levied~~

~~Every person residing within the corporate limits of the city, and every business having a place of business within the corporate limits of the city, except those herein exempt from the provisions of this chapter, who is the owner of a vehicle, regardless of the county or state where registered, which is found or operated within the city, shall, at the time such person registers such vehicle or applies for a dealer's plate under the provisions of Neb. Rev. Stat. § 60-301 et seq. (Reissue 2010) and amendments thereto, pay to the County Treasurer of Hall County a vehicle fee for street improvements as hereinafter provided, which fee is hereby levied and assessed against such owner.~~

~~§22-149. Annual Fee; Collection; Credit to Road Fund.~~

~~The official registration period and the period for which such vehicle fee is levied shall be a yearly period, each period ending on the first day of the month one year from the month during which the vehicle is required to be registered under the provisions of Neb. Rev. Stat. § 60-301 et seq. (Reissue 2010), and amendments thereto; provided, that for any vehicle registered on a calendar year basis under said state law, the period for which the vehicle fee is levied shall end on December 31 of each year; and provided, further, that for any vehicle registered for a period longer than twelve months in accordance with said state law, the period for which the vehicle fee is levied shall be for an equivalent and corresponding period, and the amount of the vehicle fee for such periods shall be increased in an amount proportionate to the number of months, or parts of such months, by which the registration period exceeds twelve months.~~

~~The fee shall be paid to the County Treasurer of Hall County, Nebraska when the registration fees as provided in the Nebraska Motor Vehicle Registration Act are paid. Such fees shall be credited by the County Treasurer to the Road Fund of the City.~~

~~§22-150. Reduction of Fee~~

~~Except as herein provided, no reduction in such vehicle fee shall be made, regardless of the time when the application for registration is made or when the fee is paid. The fee levied upon an vehicle registered in accordance with Neb. Rev. Stat. § 60-301 et seq. (Reissue 2010), and amendments thereto, for a period which will expire in less than six months from the first day of the month of such registration shall be one half~~

ORDINANCE NO. 9723 (Cont.)

~~of the fee otherwise levied under Section §22-153, Fee Schedule, of this code, unless the fee is transferable as provided in Section §22-153, Fee Schedule, of this code.~~

~~§22-151. Refund of Fee~~

~~1) Upon the transfer of ownership of any vehicle, the number of unexpired months remaining on the vehicle fee for street improvements paid pursuant to this chapter shall be credited or the money paid refunded to the transferor; provided, that when such vehicle is transferred within the same calendar month in which acquired, no refund shall be allowed for such month. Should such transferor acquire another vehicle at the time of such transfer, such transferor shall have the credit herein provided applied toward payment of the motor vehicle fee for street improvements then owing. Such vehicle fee, or any part of it, shall not be refunded for any cause or by any method except as prescribed herein.~~

~~2) Partial refund of the City of Grand Island Motor Vehicle fee shall be paid by the City upon application and proof of payment of such fee for a registration period commencing prior to March 1, 2018 at an amount that exceeds the fee in effect commencing March 1, 2018. Partial refunds provided hereby shall equal the difference between the fee paid and the fee effective March 1, 2018. The City Finance Director may adopt such procedures, rules and forms necessary to implement the §22-151(2).~~

~~Amended by Ordinance No. 9672, effective 3-1-2018~~

~~§22-152. Funds Created; Use~~

~~All monies derived from the payment of the vehicle fee for street improvements shall be used exclusively for constructing, repairing, maintaining, or improving streets, roads, alleys, public ways, or parts thereof or for the amortization of bonded indebtedness when created for such purposes as provided by Neb. Rev. Stat. § 18-1214 et seq.~~

~~§22-153. Fee Schedule~~

~~Commencing November 1, 2017, the fee provided for in this chapter shall be as follows:~~

~~Commencing November 1, 2017, the fee provided for in this chapter shall be as follows:~~

~~Any motor vehicle registered as a motorcycle and any~~

ORDINANCE NO. 9723 (Cont.)

~~dealer motorcycle license~~

~~plates.....
..... \$12.50~~

~~-~~

~~Any motor vehicle registered as a passenger car, farm truck (any tonnage)
or minitruck and any dealer license~~

~~plates.....
..... \$22.50~~

~~-~~

~~Any motor vehicle registered as a bus, commercial vehicle (any tonnage),
or motor recreational~~

~~vehicle.....
..... \$52.50~~

~~-~~

~~Commencing March 1, 2018, the fee provided for in this chapter shall be as
follows:~~

~~-~~

~~Any motor vehicle registered as a motorcycle and any
dealer motorcycle license~~

~~plates.....
..... \$12.50~~

~~-~~

~~Any motor vehicle registered as a passenger car, autocycle, farm truck (any
tonnage), commercial vehicle 5 ton combined weight or less, or minitruck, and
any dealer license plates (excluding dealer motorcycle
plates).....\$22.50~~

~~-~~

~~Any motor vehicle registered as a bus, commercial vehicle more than 5 ton
combined weight, or motor recreational~~

~~vehicle.....
..... \$52.50~~

~~Amended by Ordinance No. 9672, effective 3-1-2018~~

~~§22-154. Payment of Fee; Penalty for Delinquencies~~

~~The annual motor vehicle fee shall be due and payable to the Hall County Treasurer at
the same time as the state registration for vehicles under Neb. Rev. Stat. § 60-301 et
seq. (Reissue 2010), and amendments thereto, and shall be delinquent thereafter. Such
fee shall draw interest at the rate of one percent per month after delinquent; and, in
addition, a penalty of five percent for failure to pay said fee within six months after
due shall be collected. In any case, if any person shall fail to make payment of the fee~~

ORDINANCE NO. 9723 (Cont.)

~~herein provided, the City of Grand Island shall have the right and may sue any person in any court of competent jurisdiction for the amount of the fee due and payable under the provisions of this chapter, together with interest and penalties. The Hall County Treasurer shall not be responsible for collection of interest and penalties provided hereby.~~

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~~§22-155. Exemptions~~

~~The provisions of this chapter shall not apply to:~~

- ~~(a) Any vehicle owned by the United States of America or agency thereof;~~
- ~~(b) Any vehicle owned by the State of Nebraska;~~
- ~~(c) Any vehicle owned by any political subdivision of the State of Nebraska;~~
- ~~(d) Any vehicle is used or stored but temporarily within the city for a period of six months or less in a twelve month period;~~
- ~~(e) Any vehicle subject to Interstate Registration Proration (Neb.Rev.Stat. §60-3,198);~~
- ~~(f) Any vehicle exempt under the provisions of the federal Servicemembers Civil Relief Act; and~~
- ~~(f) Any vehicle owned by a full time student attending a postsecondary institution and is not registered in Hall County, Nebraska.~~

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~~§22-156. Severability~~

~~If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given without the invalid provision or application, and to this end the provisions of this chapter are severable.~~

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~~§22-157. Termination~~

~~Unless extended, the fee imposed by Sections 22-147 through 22-156 shall terminate on September 30, 2019.~~

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~~§22-158. Penalty for Violations.~~

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~~Any person who fails, neglects, or refuses to pay the annual motor vehicle fee when due shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$100.00. Each day that a violation of this article continues shall constitute a separate and distinct offense and shall be punishable as such.~~

Added by Ordinance 9646, effective 11-1-2017

ORDINANCE NO. 9723 (Cont.)

SECTION 2. All ordinances or parts of ordinances in conflict herewith be, and hereby are, repealed.

SECTION 3. This ordinance shall be in force and take effect from and after May 1, 2019.

SECTION 4. This ordinance shall be published within fifteen days hereof as provided by law.

Enacted: March 12, 2019.

Roger G. Steele, Mayor

Attest:

RaNae Edwards, City Clerk