



# CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

## OFFICE OF THE CITY ATTORNEY

300 Sixth Street

Jason E. Green, City Attorney  
City web: [www.rcgov.org](http://www.rcgov.org)

Phone: 605-394-4140  
Fax: 605-394-6633  
e-mail: [Jason.green@rcgov.org](mailto:Jason.green@rcgov.org)

### MEMORANDUM

TO: Mayor Jim Shaw & Council Members

FROM: Jason E. Green, City Attorney

DATE: February 1, 2005

RE: Sales Tax Ordinance

The Council has asked me for options to restrict the use of the additional revenue that will be collected if Ordinance # 5019 is approved. I have identified several options for your consideration.

Option A      Ordinance # 5019 alone.

Simply enacting Ordinance # 5019 is the easiest option. If the Council chooses this option, the additional revenue generated by the .16% increase in the rate will be distributed just as revenue currently is distributed: 1/2 to the general fund, 1/4 to 2012 and 1/4 to CIP. The Council would have to approve a supplemental appropriation from the general fund to move the revenue to the sewer fund.

Note: Only one half of the additional revenue from the additional .16% collected will be available for the sewer fund under this option.

Option B      Additional amendments to direct the additional revenue to the sewer fund.

1. Approve Ordinance # 5019 and direct my office to prepare a revision to the municipal code that directs all of the additional revenue to the sewer fund. It is necessary to prepare another ordinance because the use of sales tax revenue is controlled by one section of the Municipal Code (3.16.010) and the rate imposed is controlled by another (3.16.060). The title of

Ordinance # 5019 contains a reference to the section that imposes the rate only. Therefore, Ordinance # 5019 cannot be used to amend RCMC section 3.16.060.

Note: If this option is selected, it will require a change to the portion of the ordinance that directs the amount of funding to the general fund, the 2012 program and the CIP. Rather than receiving 25% of the sales tax revenue, each would receive only 23% of the total revenue collected. This may give the false impression that the amount of funding for 2012 is being reduced.

2. As another alternative, the Council could approve an amendment to section 3.16.010 that would achieve the same result without changing the numbers for the 2012 and CIP funding. However, this will make a mess of the municipal code and is very likely to lead to confusion and presents an unnecessary risk of inadvertent misdirection of funds in the future. Therefore, I do not recommend this option. However, since it is a legal option, I feel I must present it for your consideration. First I suggest calling the current text of section 3.16.010 (with the amendment to 2%) subparagraph A. Then add subparagraph B, which will read as follows:

B. Notwithstanding section 3.16.060 of the Rapid City Municipal Code, 8% of the revenue generated by the tax rate established by this chapter shall be used for the support of the City's sewer fund. The remaining 92% shall be distributed according to section 3.16.060.

Please feel free to contact me if there are any questions.

JEG/map

cc: Jim Preston  
Coleen Schmidt  
Michael Booher  
Joel Landeen