

Title 3

REVENUE AND FINANCE

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Chapter 3.01

CITY CONTRACTS

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3.01.010 Contracting authority delegated to department directors.

3.01.010 Contracting authority delegated to department directors.

A. Any department director designated by the mayor shall have the authority to enter into contracts on behalf of the city, provided that any necessary funding is available within the department's budget and the contract is first reviewed and approved by the city attorney.

B. If an individual department director enters into a contract or multiple contracts with a single vendor with an aggregate cost of more than fifteen thousand dollars (\$15,000.00) in a year, approval by the council will first be required for all contracts in excess of the fifteen thousand dollars (\$15,000.00) aggregate. Notwithstanding this subsection, in the event of extenuating circumstances, a department director may enter into contracts with a single vendor that exceeds the fifteen thousand dollars (\$15,000.00) limit, provided that the requirements of the laws on competitive bidding are satisfied. The extenuating circumstances shall be reported to the council at its next regular meeting. (Ord. 632, 2006)

Chapter 3.04

SALES AND SERVICE TAX

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3.04.010 Purpose.

The purpose of this chapter is to provide needed revenue for the Municipality of Custer City, Custer County, South Dakota, by imposing a municipal retail sales and use tax pursuant to the powers granted to the municipality by the State of South Dakota, by SDCL 10-52 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto. (Ord. 616 § 1, 2005: Ord. 589 (part), 2003)

3.04.020 Effective date and enactment of tax.

From and after the first day of January, 2006, there is imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by two percent on the gross receipts of all persons engaged in business within the jurisdiction of the Municipality of Custer City, Custer County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto. (Ord. 616 § 2, 2005: Ord. 589 (part), 2003)

3.04.030 Use tax.

In addition there is imposed an excise tax on the privilege of use, storage and consumption within the jurisdiction of the municipality of tangible personal property or services purchased from and after the first of January, 2006, at the same rate as the municipal sales and service tax 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. (Ord. 616 § 3, 2005: Ord. 589 (part), 2003)

3.04.040 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 and Regulation 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 and Regulation of the State of South Dakota shall lawfully prescribe. (Ord. 616 § 4, 2005: Ord. 589 (part), 2003)

3.04.050 Interpretation.

It is declared to be the intention of this chapter 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 hereto, and that this shall be considered a similar tax except for the rate thereof to that tax. (Ord. 616 § 5, 2005: Ord. 589 (part), 2003)

3.04.060 Penalty.

Any person failing to or refusing to make reports or payments prescribed by this chapter and the rules and regulations relating to the ascertainment and collection of the tax levied in this chapter shall be guilty of a misdemeanor and upon conviction shall be fined not more than two hundred dollars (\$200.00) or imprisoned in the municipal jail for thirty (30) days or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL 10-45, and acts amendatory thereto, and SDCL 10-46 and acts amendatory thereto, are authorized for the collection of these excise taxes by the Department of Revenue and Regulation. (Ord. 616 § 6, 2005: Ord. 589 (part), 2003)

Chapter 3.08

ADDITIONAL SALES TAX ON CERTAIN BUSINESSES*

Sections:

- 3.08.010** **Imposed.**
- 3.08.020** **Disbursement.**
- 3.08.030** **Accounting reports.**

* Prior history: Ord. 299.

3.08.010 **Imposed.**

The city shall, and does, pursuant to the provisions of SDCL 10-52A, impose an additional municipal non-ad valorem tax at the rate of one percent upon the gross receipts of all leases or rentals of hotel, motel, campsites, or other lodging accommodations within the city for periods of less than twenty-eight (28) consecutive days, and upon the sale of alcoholic beverages as defined in SDCL 35-1-1; and the gross sales of all establishments for the sale of prepared food in establishments where the public is invited to eat, dine, or purchase and carry-out prepared food for immediate consumption; and ticket sales to places of amusement.

Pursuant to the provisions of SDCL 10-52A, said funds shall be used for the purpose of land acquisition, architectural fees, construction costs, payments for civic center, auditorium or athletic facility buildings, including the maintenance, staffing and operations of such facilities and the promotion and advertising of the city, its facilities, attractions, and activities including the maintenance, staffing, and operation of the Custer Chamber of Commerce. Revenues received as a result of this chapter shall be split between the city and the Custer County Chamber of Commerce as indicated in Section 3.08.020. (Ord. 588, 2003; Ord. 559, 2002; Ord. 534 (part), 2000)

3.08.020 **Disbursement.**

Commencing in the year 2009, the annual proceeds from the hereinabove-stated tax shall be divided as follows. The City of Custer City shall retain \$25,000.00 each year, payable as follows: \$10,000.00 in September, \$10,000.00 in October, \$5,000.00 in November. The Custer Area Chamber of Commerce shall be entitled to the subsequent \$130,000.00. Any revenue received from said tax in excess of \$155,000.00 shall be apportioned in the following manner: The City of Custer City shall retain twenty percent (20%), and the Custer Area Chamber of Commerce shall receive eighty percent (80%), settled in December each year. (Ord. 651 (part), 2008; Ord. 534 (part), 2000)

3.08.030 **Accounting reports.**

An authorized representative from the Custer Area Chamber of Commerce shall attend and present an annual accounting and report to the council at the first council meeting in April of each year. (Ord. 651 (part), 2008; Ord. 534 (part), 2000)

Chapter 3.10

CAPITAL REPLACEMENT RESERVE FUND

Sections:

3.10.010 Established.

3.10.010 Established.

A. In accordance with SDCL 9-21-31, there is hereby established in the city of Custer, a capital replacement reserve fund, not to exceed two hundred fifty thousand dollars (\$250,000.00).

B. The Custer City finance officer shall determine the amount to be credited to said reserve fund by crediting fifty (50) percent of the end-of-year undesignated fund balance increase that would traditionally return to the general fund to the capital replacement reserve fund.

C. Said fund shall only be utilized for replacement of major equipment, and any purchase from this fund shall only be utilized for an asset or equipment costing more than thirty thousand dollars (\$30,000.00). (Ord. 722, 2012; Ord. 540, 2001)

Chapter 3.12

BUSINESS IMPROVEMENT DISTRICT NO. 1

Sections:

- 3.12.001 Establishment of district.**
- 3.12.002 Boundaries of district.**
- 3.12.003 Purpose of district.**
- 3.12.004 Occupation tax imposed.**
- 3.12.005 Duty to account for complimentary rooms.**
- 3.12.006 Computation and collection of occupation tax.**
- 3.12.007 Statement required along with occupation tax payment.**
- 3.12.008 Penalties for failure to pay occupation tax.**
- 3.12.009 Payment of fees.**
- 3.12.010 Costs incurred by City in administering occupation tax.**
- 3.12.011 Payment of occupation tax proceeds.**
- 3.12.012 Severability.**

3.12.001 Establishment of district.

Pursuant to the provisions of SDCL Chapter 9-55, Business Improvement District No. 1 of the City Of Custer City is hereby created. A Resolution of Intent to create a Business Improvement District was adopted by the Common Council of Custer City on March 13th, 2008 with Resolution No. 03-17-08B. The public hearing on creation of the Business Improvement District was held in the City Council Chambers on April 21st, 2008 at 5:30 p.m.

(Ord. 650 (part), 2008)

3.12.002 Boundaries of district.

A. The boundaries of the Business Improvement District shall be all lodging establishments /properties zoned for business or commercial purposes within the corporate limits of the City of Custer; A lodging establishment is any building or other structure and property or premises (except for a licensed bed and breakfast) having:

1. Units or rooms that are kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are furnished for pay to transient guests as defined by SDCL 34-18-1 (14); and,
2. Which is open for business two or more months per calendar year; and,
3. Which has less than thirty (30) percent of its available units or rooms occupied for pay by the same guests ninety (90) or more consecutive calendar days per year.

B. Lodging establishments within the Business Improvement District which do not meet one (1) or more of the above criteria may petition to be included in the Business Improvement District.

C. All the lodging establishments which meet the criteria enumerated herein at the time of this ordinance are automatically in the Business Improvement District. Lodging establishments which meet the criteria enumerated herein that are built, constructed, or established after the enactment of this ordinance are also automatically in the

3.12.002

Business Improvement District. Lodging establishments which meet the criteria at the time of the enactment of this Ordinance but subsequently, for whatever reason, fail to meet the criteria herein still automatically remain in the Business Improvement District. Lodging establishments which at any time do not meet the criteria enumerated herein but voluntarily petition to be a part of the Business Improvement District are permanently in the Business Improvement District and cannot voluntarily remove themselves from the Business Improvement District, just as any lodging establishments which are automatically in the Business Improvement District cannot remove themselves voluntarily.

(Ord. 650 (part), 2008)

3.12.003 Purpose of district.

Business Improvement District No. 1 is created for the purpose of a portion or all of the future proposed public activities, facilities, and improvements along with the costs of acquisition, construction, maintenance, operation and repair of such improvements, facilities, or activities and the marketing, promotion for the betterment of the community.

(Ord. 650 (part), 2008)

3.12.004 Occupation tax imposed.

The method of raising revenue shall be by imposing an occupation tax in the amount of two dollars (\$2.00) per room per night upon transient guests based upon rooms rented by the lodging establishments within the Business Improvement District. This occupation tax shall be fair, equitable and uniform as to class. No occupation tax may be imposed on any transient guest who has been offered a room by a lodging establishment on a complimentary basis, whereby no fee or rent is charged for such room. The amount may from time to time be amended by the recommendation of the Business Improvement District Board and enacted by resolution of the Common Council of the City of Custer. The Business Improvement District Board shall allocate the additional advertising dollars for the overall betterment of the community and the collected revenues shall be managed and expended by the B.I.D. Board as authorized by law, including specifically SDCL 9-55-3.

(Ord. 650 (part), 2008)

3.12.005 Duty to account for complimentary rooms.

Each hotel, motel or lodging establishment shall account for complimentary rooms, which are also subject to audit by the City Finance Officer, with such records to show the basis for offering such room on a complimentary basis.

(Ord. 650 (part), 2008)

3.12.006 Computation and collection of occupation tax.

The City Finance Officer is authorized and directed to determine and compute the tax in accordance with this chapter. The occupation tax assessed pursuant to the terms of this chapter shall be remitted by the first day of each month to the City Finance Officer, with the remittance to be for the previous calendar month's tax collections in the same manner as utility payments. The City Finance Officer, or any person or firm contracted by the City Finance

Officer, shall be entitled to audit the books, ledgers or franchise reports of any hotel, motel or lodging establishment subject to the terms of this chapter, including the right to inspect daily reports of such hotels and motels so as to ensure that the occupancy tax assessed by this chapter is being properly remitted to the city. The City Finance Officer shall be entitled to seek injunctive relief against any hotel, motel or lodging establishment that does not remit the proper amount of tax monies when due, which relief may be in the form of an action requiring the offending hotel or motel owner to allow entry upon their property and access to their records, computers or books so as to verify that the hotel, motel or lodging establishment is remitting all monies it collects pursuant to this chapter and the laws of the state. Each hotel, motel or lodging establishment subject to this chapter shall keep accurate records of amounts collected from transient guests for review by the City Finance Officer or his or her designee, pursuant to this chapter.

(Ord. 654 (part), 2008; Ord. 650 (part), 2008)

3.12.007 Statement required along with occupation tax payment.

Any business governed by this chapter shall sign a sworn statement, to be submitted along with the remittance of any tax imposed by this chapter on or before the 1st day of each month, in accordance with utility payments, stating as follows: I declare, under penalty of perjury, that the above accounting of rooms rented is accurate and the tax payment made herein is accurate to the best of my knowledge according to my business records.

Signed _____ Dated _____

Title _____

(Ord. 654 (part), 2008; Ord. 650 (part), 2008)

3.12.008 Penalties for failure to pay occupation tax.

All remittances of occupancy tax collected pursuant to this chapter shall be due and received in the Office of the City Finance Officer, on or before the 1st day of the month following the month for which the occupancy tax remittances are due. All amounts that are not received beyond the 11th day of the month will be charged a late fee in the amount of 10% of the total amount due. Failure to pay such tax shall also constitute a violation of this chapter, which may be punishable by a fine not to exceed two hundred dollars (\$200). Each day that the payment is overdue shall constitute a separate offense. Any unpaid balance under this chapter shall constitute a lien upon the property owned by the business or user of space being taxed, shall become a lien against and shall run with the property, and may be enforced and collected in the same manner as other unpaid real property taxes and assessments. The City Finance Officer shall certify all unpaid amounts or balances to the County Treasurer for collection in the same manner as general property taxes are collected. Further, the city shall have the ability to deny the issuance of any permits or licenses, or any renewals thereof, to any business or premise that fails to conform to the provisions of this chapter, including but not limited to, building permits, malt beverage licenses, and liquor licenses. Nothing within the body of this chapter shall be construed as limiting any other rights the city has, or may pursue, in seeking collection of monies received but not paid under the terms of this chapter. In the event that this tax becomes subject to supervision by the State through the State's Department of Revenue, any rights the city has herein shall be deemed cumulative to any powers that inure to the benefit of the state.

(Ord. 654 (part), 2008; Ord. 650 (part), 2008)

3.12.009

3.12.009 Payment of fees.

In the event of any civil or criminal action being filed seeking collection of any delinquent assessments, the offending hotel, motel or lodging establishment shall be responsible for and pay all attorney's fees and costs incurred by the city in seeking payment under the terms of this chapter.

(Ord. 650 (part), 2008)

3.12.010 Costs incurred by city in administering occupation tax.

All costs incurred by the city or the City Finance Officer pursuant to this chapter shall be paid from occupancy taxes collected under this chapter. The cost may not exceed two percent of the amount of tax collected. Such cost shall be deducted at fiscal year end.

(Ord. 744, 2013; Ord. 650 (part), 2008)

3.12.011 Payment of occupation tax proceeds.

Once the occupation tax has been collected, the City Finance Office shall subtract its administrative costs. The Business Improvement District Board shall allocate the additional advertising dollars by submitting the invoices along with a signed voucher to the City Finance Office to be processed along with the normal Custer City vouchers.

(Ord. 650 (part), 2008)

3.12.012 Severability.

Should any section, clause or provision of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part declared to be invalid.

(Ord. 650 (part), 2008)