

## CHAPTER 36: FINANCE AND REVENUES

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#### **FUNDS ACCOUNTING**

### **§ 36.001 MUNICIPAL TREASURY; RECEIPTS; DESIGNATED FUNDS.**

All money belonging to the municipality derived from taxation, licenses, fines, forfeitures, the operation of waterworks or other public utility owned or operated by it, or from any other source, shall be paid into the municipal treasury, and the governing body by the annual appropriation ordinance shall designate to what fund or funds such money shall be applied.  
(Prior Code, § 3.01.010)

**§ 36.002 FINANCE OFFICER; DUTIES; ACCOUNTING.**

The Finance Officer shall receive all moneys belonging to the municipality, including taxes, licenses, fines and income from all other sources, and shall receive special assessments as provided in SDCL § 9-22-17 and keep accurate and detailed accounts thereof in such manner as the governing body may from time to time direct.  
(Prior Code, § 3.01.020)

**§ 36.003 DUPLICATE RECEIPTS; FILING WITH AUDITOR OR CLERK.**

The Finance Officer shall give every person paying money into the treasury a duplicate receipt therefore, specifying the date of payment and upon what account paid.  
(Prior Code, § 3.01.030)

**§ 36.004 ASSIGNMENT OF DELINQUENT ACCOUNTS; UNCOLLECTIBLE ACCOUNTS; DISPOSITION.**

Every municipality may assign for collection any or all delinquent accounts receivable. After reasonable collection efforts the governing body may determine that an account is uncollectible, and by formal action direct that the uncollectible amount be removed from the records and disclosed on that year's financial report. Evidence of the debt removed from the records by the formal action of the governing body shall be retained by the municipality to support possible subsequent collection of that debt.  
(Prior Code, § 3.01.040)

**§ 36.005 USE FOR PERSONAL BENEFIT; PROHIBITION.**

The Finance Officer shall keep all moneys in his or her hands belonging to the municipality separate and distinct from his or her own moneys. He or she shall not use, directly or indirectly, the municipality's money or warrants in his or her custody for his or her own benefit or that of any other person.  
(Prior Code, § 3.01.050)

**§ 36.006 DEPOSITORIES FOR MUNICIPAL FUNDS; DESIGNATION.**

The governing body shall designate the depository or depositories in which the funds belonging to the municipality shall be deposited. Such depository or depositories shall be a bank or banks within the state, unless otherwise specifically provided by law.  
(Prior Code, § 3.01.060)

**§ 36.007 DEBT SERVICE FUNDS; INVESTMENT; SPECIAL ASSESSMENT BONDS AND CERTIFICATES; INTEREST IN INVESTMENTS.**

Every municipality maintaining a debt service fund for the payment of outstanding bonds, and every municipality having outstanding revenue bonds and having accumulated "surplus funds" as contemplated by SDCL §§ 9-40-30 and 9-40-32, and every municipality owning a public utility or public utilities and having an

accumulation of earned reserve or earned surplus funds therefrom, and every municipality having sold its bonds, the proceeds from the sale of which, in the opinion of the governing body, are temporarily not required to carry out the purpose for which the bonds were issued shall keep the accumulations in such funds deposited with the lawful depositories, or invested in registered warrants or bonds of any municipal or public corporation, including those of the municipality issuing such bonds, of the state, or bonds of the United States, or bonds or securities of any kind issued by the state. Nothing herein contained, however, shall be deemed to prevent the transfer, when authorized by law, of special assessment bonds and certificates issued on account of any local improvement to the debt service fund for general obligation bonds, the proceeds of which have been used to finance such improvement. The interest accruing on such investment shall be credited to such fund from which the investment was made.

(Prior Code, § 3.01.070)

**§ 36.008 DEBT SERVICE FUNDS; INVESTMENT; MATURITY DATES OF SECURITIES.**

Moneys in any debt service fund shall be invested only in such of the securities named in SDCL § 9-22-12 as will become due and payable on or before the date when the bonds for the payment of which such debt service fund was created become due and payable, except bonds of the United States or of the state. All transactions shall be by resolution of the governing body.

(Prior Code, § 3.01.080)

**§ 36.009 SEPARATE ACCOUNTS FOR FUNDS AND APPROPRIATIONS.**

The Finance Officer shall keep a separate account of each fund or appropriation and of the debits and credits belonging thereto.

(Prior Code, § 3.01.090)

**§ 36.010 SPECIAL ASSESSMENT MONEY; RECEIPT AND APPLICATION; CANCELLATION OF CERTIFICATES.**

All money received on any special assessment shall be held by the Finance Officer in its respective fund to be applied only to the payment of the improvements for which the assessment was made. All special assessment certificates received by the Finance Officer shall immediately be canceled and preserved as vouchers in his or her office.

(Prior Code, § 3.01.100)

**§ 36.011 FINANCE OFFICER; REPORTS TO GOVERNING BODY.**

The Finance Officer shall report to the governing body on a monthly basis, giving a full and detailed account of all receipts and expenditures since his or her last monthly report, and a statement of changes in cash balances by fund.

(Prior Code, § 3.01.110)

**§ 36.012 ANNUAL FINANCIAL REPORT; PUBLICATION; FILING; EXTENSION.**

The Finance Officer shall report to the governing body at the first regular meeting of March of each year, the receipts, expenses and financial condition of the municipality, including the amount of funds in the treasury at the time of making the report and where and in what amounts the funds are deposited or invested. The report shall be published within 30 days thereafter or upon completion of an annual audit in the official newspaper, or other newspaper as the governing body may direct. Immediately after the report to the governing body, the Finance Officer shall file a copy of the report with the state Department of Legislative Audit.

(Prior Code, § 3.01.120)

**§ 36.013 BOND RECORD.**

The Finance Officer shall make and keep a list of outstanding municipal bonds, to whom issued, for what purpose, when and where payable, and the rate of interest they respectively bear and recommend such action to the governing body as will secure the prompt payment of the principal and interest of such bonds.  
(Prior Code, § 3.01.130)

**§ 36.014 ANNUAL ESTIMATE OF EXPENSES AND REVENUE.**

The City Manager shall report annually, on or before August 1, to the governing body an estimate of the expenses of the municipality and likewise the revenue necessary to be raised for the current year. The budget form shall be similar to that recommended in the municipal accounting manual provided by SDCL 4-11-6.  
(Prior Code, § 3.01.140)

*AUDIT*

**§ 36.025 ANNUAL INDEPENDENT AUDIT.**

The City Commission shall provide for an independent annual audit of all city accounts and may provide for more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the city government or any of its officers. The City Commission may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, but the designation for any particular fiscal year shall be made no later than 120 days before the expiration of such fiscal year. If the state makes such an audit, the City Commission may accept it as satisfying the requirements of this section.  
(Prior Code, § 3.02.010)

*MUNICIPAL RETAIL OCCUPATIONAL  
SALES AND SERVICE TAX*

**§ 36.040 PURPOSE.**

The purpose of this subchapter is to provide additional needed revenue for the municipality by imposing a municipal retail sales and use tax pursuant to the powers granted to the municipality by the state, by SDCL § 10-52 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto.  
(Prior Code, § 3.04.010)

**§ 36.041 EFFECTIVE DATE AND ENACTMENT OF TAX.**

From and after January 1, 2004, there is imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business, a tax measured by 2% on the gross receipts of all persons engaged in business within the jurisdiction of the municipality who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL § 10-45 and acts amendatory thereto.  
(Prior Code, § 3.04.020)

**§ 36.042 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 January 1, 2004, 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.

(Prior Code, § 3.04.030)

#### **§ 36.043 COLLECTION.**

Such tax is levied pursuant to authorization granted by SDCL § 10-52 and acts amendatory thereto, and shall be collected by the State 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 shall lawfully prescribe.

(Prior Code, § 3.04.040)

#### **§ 36.044 INTERPRETATION.**

It is declared to be the intention of this subchapter 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.

(Prior Code, § 3.04.050)

#### **§ 36.045 SEPARABILITY.**

If any provision of this subchapter is declared unconstitutional or the application thereof to any person or circumstances held invalid, the constitutionality of the remainder of the subchapter and applicability thereof to other persons or circumstances shall not be affected thereby.

(Prior Code, § 3.04.070)

#### **§ 36.046 MUNICIPAL GROSS RECEIPTS TAX.**

(A) *Purpose.* The purpose of this section is to provide additional needed revenue for the municipality by imposing a municipal gross receipts tax pursuant to the powers granted to the municipality by the state by SDCL § 10-52A, and acts amendatory thereto. (B) *Effective date and enactment of tax.* From and after July 1, 2011, there is hereby imposed a municipal gross receipts tax of 1% upon the gross receipts from the sale of leases or rentals of hotel, motel, campsites or other lodging accommodations within the municipality for periods of less than 28 consecutive days, the sale of alcoholic beverages as defined in SDCL § 35-1-1, establishments where the public is invited to eat, dine or purchase and carry out prepared food for immediate consumption, and ticket sales or admissions to places of amusement, athletic and cultural events. The tax applies to the gross receipts of all persons engaged in business within the jurisdiction of the municipality who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL § 10-45 and acts amendatory thereto.

(C) *Collection.* Such tax is levied pursuant to authorization granted by SDCL § 10-52A and acts amendatory thereto, and shall be collected by the State 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 regulation as the Secretary of Revenue of the state shall lawfully prescribe.

(D) *Interpretation.* It is declared to be the intention of this section 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 Service Tax, SDCL § 10-45 and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax.

(E) *Use of revenue.* Any revenues received under this section may be used only for the purpose of land acquisition, architectural fees, construction costs, payment for civic center, auditoriums or athletic facility buildings, including the maintenance, staffing and operations of such facilities, and the promotion and advertising of the municipality, its facilities, attractions and activities.

(F) *Separability.* If any provision of this section is declared unconstitutional or the application thereof to any person or circumstances held invalid the constitutionality of the remainder of the ordinance and applicability thereof to other persons or circumstances shall not be affected thereby.  
(Prior Code, § 3.04.010A)

***URBAN AND RURAL SERVICE DISTRICTS***

**§ 36.060 SERVICE DISTRICTS ESTABLISHED.**

Pursuant to the authority granted in SDCL Ch. 9-21A, the city is hereby divided in area into an urban service district and a rural service district constituting separate taxing districts for the purpose of levying all city ad valorem property taxes, except those levied for the payment of bonds.  
(Prior Code, § 3.05.010)

**§ 36.061 RURAL SERVICE DISTRICT; CRITERIA FOR LANDS INCLUDED.**

The rural service district shall include only such platted or unplatted lands as in the judgment of the City Commission are rural in character, are used or usable for agriculture, and are not developed for commercial, industrial or urban residential purposes. The rural service district may include lands which are not contiguous to one another.  
(Prior Code, § 3.05.020)

**§ 36.062 LANDS DESCRIBED; RURAL SERVICE DISTRICT.**

(A) The rural service district shall consist of those platted or unplatted lands described in § 36.067, also on file with the City Finance Officer’s office, entitled “Lands Included in the Rural Service District” and attached to this subchapter as § 36.067 and made a part of this subchapter, all of which lands are rural in character, are used or usable for agriculture, and are not developed for commercial, industrial or urban residential purposes.

(B) The rural service district shall also include lands outside the municipality, if annexed into the city limits, which are rural in character, are used or usable for agriculture, and are not developed for commercial, industrial or urban residential purposes.  
(Prior Code, § 3.05.030)

**§ 36.063 LANDS INCLUDED IN URBAN SERVICE DISTRICT.**

The urban service district shall include all lands within the boundaries of the city which are not included in the rural service district.  
(Prior Code, § 3.05.040)

**§ 36.064 AGRICULTURAL LAND ANNEXED; LIMITATION ON MILL LEVY AND ASSESSED VALUE.**

The tax levy and assessed value on the agricultural land annexed shall not exceed the average tax levy and average assessed value on unannexed agricultural land in adjoining townships in the county so long as the annexed land remains rural property and is included in the rural service district.  
(Prior Code, § 3.05.050)

### **§ 36.065 PLATTING OR CONSTRUCTION IN RURAL DISTRICT.**

The City Commission or officer of the city approving such plat or building permit or having knowledge of the change in circumstances shall report the change to the City Commission which shall make and enter an order transferring such parcel from the rural service district to the urban service district, whenever any parcel of land included within the rural service district:

(A) Is platted in whole or in part;

(B) Is the subject of an application for a permit for the construction of a commercial, industrial or urban residential development or improvement to be situated on such parcel or any part thereof; or

(C) Otherwise fails to meet the criteria as set forth in § 36.062 of this subchapter.  
(Prior Code, § 3.05.060)

### **§ 36.066 FILING ORDINANCE AMENDMENT OR ORDER WITH COUNTY AUDITOR.**

The City Finance Officer is hereby directed to file with the appropriate County Auditor a certified copy of the ordinance codified in this subchapter, every amendment thereof and every order adopted or entered pursuant to such subchapter.  
(Prior Code, § 3.05.070)

### **§ 36.067 LANDS INCLUDED IN THE RURAL SERVICE DISTRICT.**

(A) *Parcel 1.* The South Half of the Southwest Quarter (S1/2 SW1/4) of Section Eighteen (18), Township Ninety-eight (98) North, Range Forty-eight (48) West of the 5th P.M., Except the East 60 Feet of the South 537 Feet and the West 700.70 Feet of the South 373 Feet thereof, Lincoln County, South Dakota.

(B) *Parcel 2.* Tract Two (2) of McCart's Addition in the West Half of the Southeast Quarter (W1/2 SE1/4), except the East 134 feet of the South 247.25 feet thereof, all in Section Fifteen (15), Township Ninety-eight (98) North, Range Forty-nine (49), West of the 5th P.M., Lincoln County, South Dakota, according to the recorded plat thereof.

(C) *Parcel 3.* The Northwest Quarter of the Northwest Quarter (NW 1/4 NW 1/4). (Except the South 100 feet of the North 549 feet of the East 208 feet of the West 258 feet thereof, and Except Tract 1A, Northern States Power Co. Addition to the City of Canton, and Except the SW 1/4 NW 1/4 NW 1/4, and Except the South 208 feet of the North 449 Feet of the East 208 Feet of the West 258 Feet thereof), Section Thirteen (13), Township Ninety-eight (98) North, Range Forty-nine (49) West of the 5th P.M., Lincoln County, South Dakota, according to the Government Survey thereof.

(D) *Parcel 4.* Tract Four (4) of Canton Development Addition in the North Half of the Southwest Quarter (N 1/2 SW 1/4) of Section Fifteen (15), Township Ninety-eight (98) North, Range Forty-nine (49) West of the 5th P.M., Lincoln County, South Dakota, according to the recorded plat thereof.  
(Prior Code, Exh. A)

*FUNDS DEPOSITED WITH THE CITY*

**§ 36.080 NO INTEREST TO BE PAID.**

No interest shall be paid by the city on any funds deposited with the city, including, but not limited to, deposits paid as a condition for, or in connection with, the obtaining of municipal water service from the city. (Prior Code, § 3.08.010)

**§ 36.081 IMPOSITION OF REQUIREMENTS.**

By resolution duly adopted by the City Commission, it may, from time to time, impose requirements for such deposits as the City Commission deems necessary, and, by such resolution, the City Commission may establish the amounts of any such deposits, and period of time for which such deposits may be held by the city, and the conditions for the refund of such deposits. (Prior Code, § 3.08.020)

**§ 36.082 INTEREST EARNED TO BE PROPERTY OF CITY.**

Any interest earned on such deposits while held by the city shall be the sole and exclusive property of the city. (Prior Code, § 3.08.030)

**§ 36.999 PENALTY.**

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Any person failing or refusing to make reports or payments prescribed by §§ 36.040 through 36.045 and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$200 or imprisoned in the municipal jail for 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. (Prior Code, § 3.04.060)

(C) Any person failing or refusing to make reports or payments prescribed by § 36.046 and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$200 or imprisoned in the municipal jail for 30 days or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL § 10-45, and acts amendatory thereto, are hereby authorized for the collection of these excise taxes by the Department of Revenue. (Prior Code, § 3.04.010A)