

ORDINANCE NO. 12-A

AN ORDINANCE REGULATING AND LICENSING COIN OPERATED MUSIC BOXES, THE OPERATORS AND DISTRIBUTORS THEREOF, PROVIDING LICENSE FEES THEREFOR, PROVIDING PENALTIES FOR THE VIOLATION THEREOF, REPEALING ORDINANCE NO. 12 AND DECLARING AN EMERGENCY.

The City of Brookings does ordain as follows:

SECTION 1. DEFINITIONS.

(a) The term "coin operated music box" as used herein shall be deemed to mean and include any kind of device which plays music when a coin has been inserted therein or when anything of value has been paid to the operator thereof for the playing of such device.

(b) The word "operator" as used herein shall mean any person who shall display, maintain, keep or operate any coin operated music box, as herein defined, in any public place or other place where the public is invited to attend.

(c) The word "distributor" shall mean any person who shall sell, rent, lease, furnish, under any kind of arrangement, or deliver to one or more operators one or more coin operated music boxes in the City of Brookings.

SECTION 2. The license fees imposed hereby shall be in addition to any license fees otherwise imposed by ordinance of the City of Brookings.

SECTION 3. Any distributor who shall desire to sell, rent, lease, furnish, under any kind of arrangement, or deliver to one or more operators in the City of Brookings, one or more coin operated music boxes, as herein defined, shall make application with the City Recorder for a license so to do, which application shall be on a form to be provided by the City; and any such distributor shall pay to the City Recorder the license fee hereinafter provided.

SECTION 4. Every distributor of coin operated music boxes, as herein defined, shall pay an annual license fee of \$15.00 for each coin operated music box which he shall sell, rent, lease, furnish, under any kind of arrangement, or deliver to any operator in the City of Brookings; provided, however, that when he shall have made an honest and bona fide sale of any such music box and there has been an unrestricted transfer of all his right, title and interest therein, the license fee provided for herein shall be required of him for the year in which such sale shall take place, but not thereafter.

SECTION 5. Any person, firm, or corporation who shall purchase and become the owner of a coin operated music box and who shall also be an "operator" thereof as herein defined, shall be required to comply with this ordinance the same as though he were a "distributor" as herein defined.

SECTION 6. When any distributor has made the necessary application and paid the required fee for such license, the City Recorder shall issue to him an appropriate seal to be placed upon such coin operated music box as evidence of the license fee having been paid therefor, and the distributor shall, within eight hours from the time such seal is so issued, cause the same to be securely affixed to the machine for which it was obtained. The Council shall determine the type of seal to be so placed upon such coin operated music box, and it may change the type thereof from time to time.

SECTION 7. The seal referred to in Section 5 shall show upon its face the year for which it was issued and the fee paid therefor.

SECTION 8. It shall be unlawful for any operator or distributor to have in his possession in the City of Brookings any coin operated music box, as herein defined, which does not bear the seal provided for herein, and it shall be unlawful for any operator, distributor or other person to deface any such seal or remove the same from the particular coin operated music box for which it was obtained and upon which it has been placed. It shall also be unlawful for any operator, distributor, or other person to cause any such seal to be placed upon any coin operated music box for which such license fee has not been paid and for which the seal was not obtained.

SECTION 9. The Chief of Police and any police officer of the Bureau of Police shall have authority and it shall be his duty to seize and impound any coin operated music box, as herein defined, which does not have affixed to it the seal herein provided for, regardless of where he may locate such coin operated music box and regardless of whether or not the license fee herein provided has been paid therefor. The burden is upon the distributor, operator or owner to see to it that such seal is at all times upon such machine, and in absence of such seal, the machine shall be seized and impounded, for the absence of such seal is a violation of this ordinance, whether or not the license fee has been paid. Any such coin operated music box so seized and impounded shall be kept in storage under the supervision of the Commissioner of Police, and it shall there remain until any judgment assessed against the distributor or owner thereof by the Municipal Court of the City of Brookings has been fully paid or satisfied and until the license fee required therefor has been paid and the seal called for herein affixed thereto as hereinbefore provided.

SECTION 10. When any coin operated music box has been seized and impounded under the provisions of this ordinance, the person, firm, or corporation who was the distributor, or owner thereof shall be liable to the City for all costs of transportation, storage and insurance, if any, which the City may incur by reason of such seizure and impounding, in addition to the license fee and any fine assessed hereunder.

SECTION 11. Any person found guilty of a violation of this ordinance shall be punished by a fine of not more than \$500.00 for each such violation or by imprisonment in the City Jail for a period of not more than two months; or by both such fine and imprisonment.

SECTION 12. Whenever any coin operated music box has been seized and impounded under the provisions of this ordinance and the distributor or owner thereof has failed, neglected or refused to pay either or all of any fine assessed against him hereunder, or the license fee provided or the costs of transportation, storage, and insurance, for a period of two months following such seizure, the City may, after 15 days' written notice of its intention to do so, being served by mail upon such distributor or owner or the agent of either, sell the same at public auction to the highest bidder for cash and the proceeds from such sale shall be applied; first, toward payment of the costs of such sale; secondly, toward the payment of costs of transportation, storage and insurance incurred by reason of the seizure and impounding; third, toward payment of the license fee due on such machine; and lastly, toward payment of any fine assessed hereunder against such distributor or owner, and such distributor or owner shall be liable for any deficiency thereon, and shall not be relieved of any jail sentence which may have been imposed upon him hereunder. Any proceeds obtained from any such sale in excess of the amount necessary to pay said items, shall become and be the property of the City unless called for by such distributor or owner, personally within sixty days from the date of such sale; provided, however, that if such distributor or owner shall actually pay all charges, fines, license fees, and assessments which the City has against him under the provisions of this ordinance within said 15 days, then said sale shall not be consummated.

SECTION 13. The Chief of Police or any police officer of the Bureau of Police who shall seize and impound any coin operated music box under the provisions of this ordinance shall place the same in the storage depository designated by the Commissioner of Police without unnecessary delay.

SECTION 14. Any sale under the provisions of this ordinance shall be conducted by the Chief of Police who shall also act as the auctioneer, and he shall cause an appropriate notice of such sale to be published in a newspaper of general circulation, which notice shall briefly describe the property to be sold and the time of such sale which shall not be sooner than 20 days from the date upon which the notice specified in Section 12 was mailed.

SECTION 15. Any money which may be in any coin operated music box at the time it is seized and impounded under the provisions of this ordinance shall be forthwith removed therefrom by the Chief of Police who shall make a record as to the amount thereof, and such money shall be used by the City toward payment of any of the charges

finer, assessments and license fees which the City has against the distributor or owner thereof under the provisions of this ordinance, but such distributor or owner shall not be relieved of any deficiency or jail sentence.

SECTION 16. The license fees provided for herein shall be due and payable on the 2nd day of January of each and every year; provided, however, that any license fees heretofore paid on coin operated music boxes for the years 1951 and 1952 as provided in Ordinance No. 12 shall be deemed to have been paid under the provisions of this ordinance.

SECTION 17. If any section, provision, paragraph, sentence, phrase, or word of this ordinance shall, for any reason whatsoever, be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment or decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 18. Ordinance No. 12 of the City of Brookings, dated 27th day of November, 1951, is hereby repealed.

SECTION 19. It is hereby adjudged and declared that existing conditions are such that this ordinance is necessary for the immediate preservation of the public peace, health and safety of the City of Brookings, and an emergency is hereby declared to exist and this ordinance shall take effect and be in full force and effect from and after its passage.

Read by title and in full this 1st day of July, 1952.

Read a second time by title this 15th day of July, 1952.

Read a third time by title and passed by the Council this 29th day of July, 1952.

Authenticated this 29 day of July, 1952.

Robert O. Dimmick  
Robert O. Dimmick, Mayor

Passed by the Council July 29, 1952.

R. V. Gussert  
Recorder

