

ORDINANCE NO. 24

AN ORDINANCE REGULATING AND TAXING CERTAIN DEVICES, THE OPERATORS AND DISTRIBUTORS THEREOF, DEFINING CERTAIN TERMS, PROVIDING PENALTIES FOR VIOLATION THEREOF AND DECLARING AN EMERGENCY.

The City of Brookings does ordain as follows:

SECTION 1. DEFINITIONS:

(A) The word "person" shall mean any natural person, firm, co-partnership, corporation, or association of any kind.

(B) The word "device" shall mean and include pin-ball machines, slot machines, punch-boards, roulette wheels, clock-faced game gadgets, any type of contrivance similar to any one of those, and any type of gaming device or contrivance, from the playing or using of which a customer who has paid or is obligated to pay a consideration may, by skill or otherwise, become entitled to receive an article of value or the right or privilege of further playing or using the same.

(C) The word "operator" shall mean any person who shall display, maintain, keep, or operate any such device in any public place or other place where customers are invited or otherwise attend.

(D) The word "distributor" shall mean any person who shall rent, lease, or furnish, under any kind of an arrangement whatsoever other than a bona fide sale, which sale passes both legal and equitable title to the buyer.

(E) The word "customer" shall mean any person using or playing or seeking to use or play any device.

(F) The word "owner" shall mean any person who holds either the legal or equitable title to any device or both the legal and equitable title to any device.

(G) The term "operator-owner" shall mean any operator as herein defined who shall also own, either the legal or equitable or both titles to any device.

SECTION 2. Any owner, distributor, or operator-owner who shall display, maintain, or keep in any way for use or play by any customer any device as herein defined, shall register such device with the City Recorder, and pay to the City Recorder the tax herein provided. Such owner, distributor, or operator-owner shall register such device by completing and signing his name to a form to be provided by the City, which form shall call for such information as

as will enable the City to properly administer this ordinance.

SECTION 3. No owner, distributor, or operator-owner of any device shall display, maintain, or keep in any way for use or play by any customer, any such device without first having registered the same, paid the tax herein assessed and levied thereon, and affixed thereto the seal hereinafter required to be thereon.

SECTION 4. There is hereby assessed and levied against the following enumerated devices the amount of tax set out opposite each such enumerated device, and there is hereby assessed and levied against any device as in this ordinance defined, and which is not hereafter enumerated, an annual tax of Sixty Dollars (\$60.00).

- (a) Pin-ball machines, Sixty Dollars per machine per annum.
- (b) Slot-machines, Sixty Dollars per machine per annum.
- (c) Roulette Wheels, Sixty Dollars per wheel per annum.
- (d) Shuffle Alleys, Sixty Dollars per alley per annum.
- (e) Target Machines or gadgets, Sixty Dollars per machine or gadget per annum.
- (f) Gadgets of the nature of roulette wheels, Sixty Dollars per gadget per annum.
- (g) Punch-Boards or similar contrivances, Two Percent (2%) of the gross face value of each punch-board and of each similar contrivance.

SECTION 5. When any owner, distributor, or operator-owner of any device has registered the same with the City Recorder and paid the tax herein assessed and levied thereon, the City Recorder shall issue to such owner, distributor, or operator-owner, an appropriate seal to be affixed to the particular device so registered, and such owner, distributor, or operator-owner, shall forthwith securely affix such seal to the particular device so registered.

SECTION 6. The tax herein assessed and levied, except that specified on punch-boards and similar contrivances in sub-paragraph (h) of Section 4 hereof, shall be paid annually on or before the 15th day of January of the year for which such tax is payable; provided, however, that when any owner, distributor, or operator-owner, who is not in violation of this ordinance with respect thereto, shall register any device, other than punch-board or similar contrivance, for the first time on or after the 1st day of February of any year, the tax so payable by him for that year, shall be a pro rated amount of that specified in Section 4 hereof; that is, the amount of tax then due and payable by him shall be

that amount which shall be equal to one-twelfth of the tax set out in Section 4 hereof times the number of months then remaining in said year; for the purpose of computing such pro rated tax, a part of a month shall be considered a full month. The tax assessed against punch-boards and similar contrivances in Section 4 hereof shall be paid at the time such punch board or similar contrivance is registered with the City Recorder.

SECTION 7. It shall be unlawful for any owner, distributor, or operator-owner to keep, display, or maintain, for use or play by any customer any device, as herein defined, without having first registered the same and having paid the tax as herein provided.

SECTION 8. It shall be unlawful for any owner, distributor, or operator-owner to keep, display, or maintain, for use or play by any customer any device which does not have affixed to it the seal herein provided. Any owner, distributor, or operator-owner who shall have in his possession any device, as herein defined, which is not contained in a sealed box or other sealed container, shall be conclusively presumed to be keeping, displaying, or maintaining such device for use or play by a customer.

SECTION 9. It shall be unlawful for any person to affix any seal issued by the City Recorder to any device other than the one for which said seal was issued, and it shall be unlawful for any person to deface any such seal or to remove such seal from the device for which it was issued.

SECTION 10. It shall be unlawful for any person to make any false statement or misrepresentation when registering any device with the City Recorder.

SECTION 11. The seal in this ordinance provided for shall be of such size and design as the City Council may prescribe, and the City Council may prescribe a different size and different design for one or more types of devices, and the City Council may, from time to time, change the size and design of such seals for future issues.

SECTION 12. This ordinance shall not be construed in any way as legalizing gambling or lotteries.

SECTION 13. 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 device, as herein defined, which has not been registered as provided herein or upon which the tax herein assessed and levied, has not been paid, or which does not bear or have affixed to it the seal herein provided for. The burden is upon the owner, distributor, or operator-owner to see to it that such seal is at all times affixed to such device, for, in the absence of such seal, it shall be the duty of the Chief of Police or a Police Officer to seize and impound such device. Any such device 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 owner, distributor, or operator-owner thereof, on account of violating this ordinance, has been fully paid and satisfied, and further, it shall remain there until the tax assessed and levied thereon by this ordinance, has been fully paid and until the seal herein provided for has been affixed thereto. Any money which may be in any device 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 the tax due hereunder, the cost of transportation, storage, and insurance, as hereinafter provided, and any fine assessed against the owner, distributor, or operator-owner of such device; provided, however, that the owner, distributor, or operator-owner shall be liable for any deficiency remaining after the application of such money thereto; and, provided further, however, that such owner, distributor, or operator-owner shall not be relieved of any jail sentence imposed upon him for any violation of this ordinance.

SECTION 14. Any owner, distributor, or operator-owner of any device seized and impounded under the provisions of this ordinance, shall be liable to the City for the cost of transportation, storage, and insurance incurred by the City in the seizing and impounding of such device, in addition to any fine assessed against him for violation of this ordinance and in addition to the tax assessed and levied hereby.

SECTION 15. Whenever any device 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 tax herein 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 owner, distributor, or operator-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; second, toward the payment of costs of transportation, storage and insurance incurred by reason of the seizure and impounding; third, toward payment of the tax due on such machine; and last, toward payment of any fine assessed hereunder against such owner, distributor, or operator-owner, and such owner, distributor, or operator-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 personally by such owner, distributor, or operator-owner within sixty (60) days from the

date of such sale; provided, however, that if such owner, distributor, or operator-owner shall actually pay all charges, fines, taxes 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 16. 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 sale shall not be sooner than 20 days from the date upon which the notice specified in Section 15 was mailed.

SECTION 17. Any person found guilty of a violation of this ordinance shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) for each such violation or by imprisonment in the City Jail for a period of not more than six (6) months for each such violation, or by both such fine and imprisonment.

SECTION 18. 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 or the constitutionality thereof.

SECTION 19. Ordinance No. 12 of the City of Brookings, dated November 27, 1951, is hereby repealed.

SECTION 20. 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 29th day of July, 1952.

Robert O. Dimmick  
Robert O. Dimmick, Mayor

Passed by the Council July 29, 1952.

R. V. Gustafson  
Recorder