

CHAPTER 6
SALES AND GROSS RECEIPTS TAXES

Repeal of Chapter 6 adopted 1995
Revised Chapter 6, 09/22/03 – effective January 1, 2004
Ord #2012-09, Adopting Section 6-200, 08/06/12
Section 6-204 & 6-205 Amended 04/09/18
Ord. #2020-04, Amended Section 6-200 (8/3/2020); Ord. #2021-06, Amended Section 6-200 (8/2/2021)
Ord. #2022-11, Amended Section 6-200.3, 6-201, 6-202, 6-203 (8/1/2022)

6-101 PURPOSE

The purpose of this Ordinance is to provide additional needed revenue for the Municipality of Philip, Haakon 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.

6-102 EFFECTIVE DATE AND ENACTMENT OF TAX

From and after the First day of January, 2004, there is hereby imposed as municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by two percent (2%) on the gross receipts of all persons engaged in business within the jurisdiction of the Municipality of Philip, Haakon County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto. Tax will not be applied to items specifically exempt under SDCL 10-52-2.6, 10-52-11 and 10-52-12. Items exempted from municipal tax include: Farm Machinery and Irrigation Equipment, Parts or Repairs for Farm Machinery, Agriculture Animal Health Products and Medicine, Transportation Service, Collection and Disposal of Solid Waste, Veterinarian and Animal Specialty Services and Air Transportation.

6-103 USE TAX

In addition there is hereby 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, 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.

6-104 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.

6-105 INTERPRETATION

It is declared to be the intention of this ordinance 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.

6-106 USE OF REVENUE
Fifty percent (50%) of the gross revenues generated from the tax increase received under this ordinance may be used for capital improvement as authorized under SDCL 10-52-2.

6-107 REPEAL OF EXEMPTIONS
Effective January 1, 2006, items specifically exempt under SDCL 10-52-2.6, 10-52-11, 10-52-12 and 10-52-14 shall no longer be exempt and upon those previously exempted there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by two percent (2%) on the gross receipts of all persons engaged in business within the jurisdiction of the Municipality of Philip, Haakon County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.

6-108 PENALTY
Any person failing or refusing to make reports or payments prescribed by the ordinance 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 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 hereby authorized for the collection of these excise taxes by the Department of Revenue and Regulation.

6-109 SEPARABILITY
If any provision of this ordinance 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.
2003 Revised Ordinance #2003-08 Chapter 6, section 101-109, 09/22/03.

SECTION 6-200 DISCRETIONARY TAXATION OF REAL PROPERTY, DEFINITIONS AND FORMULA, NEW CONSTRUCTION AND/OR RENOVATIONS

(Approved and adopted to be effective with the taxing period from November 01, 2011 through October 31, 2012 and be reflected with the taxes payable effective January 01, 2013 and each successive taxation year thereafter unless repealed by the City Council of the City of Philip, South Dakota. *Amended 08/03/2020, 8/2/2021 & 8/1/2022.)

6-200 DISCRETIONARY TAXATION OF REAL PROPERTY
The purpose of this Ordinance is to provide reduced taxation of the following identified properties pursuant to SDCL 10-6-137.

6-200.1 INDUSTRIAL STRUCTURES
Any new industrial structure, or any addition, renovation, or reconstruction to an existing structure, including a power generation facility, which new structure or addition has a true and full value of thirty thousand dollars (\$30,000) or more, added to real property shall qualify to be assessed pursuant to the discretionary formula described in Section 6-202. ((Pursuant to SDCL 10-6-137(2))

6-200.2 COMMERCIAL STRUCTURES
Any new commercial structure, or any addition, renovation, or reconstruction to an existing structure, which new structure or addition has a true and full value of thirty thousand dollars (\$30,000) or more shall qualify to be assessed pursuant to the discretionary formula described in Section 6-202. ((Pursuant to SDCL 10-6-137(4))

6-200.3**COMMERCIAL RESIDENTIAL STRUCTURES**

Any new commercial residential structure, or addition to an existing structure, containing four or more units, if the new structure or addition has a true and full value of thirty thousand dollars (\$30,000) or more, shall qualify to be assessed pursuant to the discretionary formula described in Section 6-202. *((Pursuant to SDCL 10-6-137(5))*

6-200.4**RESIDENTIAL STRUCTURES**

Any new residential structure, or any addition to or renovation of an existing structure, located within a redevelopment neighborhood, which new structure, addition, or renovation has a true and full value of twenty thousand dollars (\$20,000) or more, added to real property shall qualify to be assessed pursuant to the discretionary formula described in Section 6-202. *((Pursuant to SDCL 10-6-137(7))*

In order to improve the quality of housing, all real property located within the Corporate limits of the City of Philip, South Dakota shall qualify as property located in a redevelopment neighborhood. The redevelopment neighborhood is being established because the area includes buildings or improvements which, by reason of age, deterioration, obsolescence, and dilapidation injuriously affect the area to the detriment of public health, safety, morals or welfare; and, because the redevelopment of housing is being prevented by the predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility, or usefulness; the deterioration of site improvements, and obsolete platting. *(Pursuant to SDCL 10-6-141)*

6-200.5**SPECIAL CLASSIFICATIONS**

All commercial, industrial, and nonresidential agricultural property which increases more than ten thousand dollars (\$10,000) in true and full value as a result of reconstruction or renovation of structure shall qualify to be assessed pursuant to the discretionary formula described in Section 6-202. All real property qualifying under this section completed on November 01, 2020 and thereafter, as determined by the Director of Equalization, is classified in the manner prescribed in this section. *((Pursuant to SDCL 10-6-137(8))*

6-201**VALUATION**

Any real property located within the Corporate limits of the City of Philip, South Dakota, classified pursuant to the following, shall, following construction, initially be valued for taxation purposed in the usual manner, and that value shall be referred to as the "Pre-Adjustment Value." The assessed value to be used for tax purposes shall follow the discretionary formula described in section 6-202. Following the five or seven year period as provided in section 6-202, the property shall be assessed at the same percentage as is all other property for tax purposes.

Reconstruction and renovation as used in this chapter means only improvements that increase the true and full value of the structure and shall not include normal maintenance and repair.

The assessed value during any of the five or seven years provided in section 6-202 may not be less than the assessed value of the property in the year proceeding the first year of the tax years following construction.

Any structure that is partially constructed on the assessment date may be valued for tax purposes pursuant to this Ordinance and the valuation may not be less than the assessed valuation of the property in the year preceding the beginning of construction.

Property owners of any of the above described property, may request the City Council not apply the discretionary formula, in which case the full assessment shall be made without application of the formula. In waiving the formula for the structure of one owner, the City Council is not prohibited from applying the formula for subsequent new structures by that owner.

6-202 DISCRETIONARY FORMULA

Any real property improvements qualifying for the discretionary formula pursuant to sections 6-200.1, 6-200.2 and 6-200.5 shall be assessed as follows:

First Year	20% of Pre-Adjustment Value
Second Year	40% of Pre-Adjustment Value
Third Year	60% of Pre-Adjustment Value
Fourth Year	80% of Pre-Adjustment Value
Fifth Year	100% of Pre-Adjustment Value

Any real property improvements qualifying for the discretionary formula pursuant to sections 6-200.3 and 6-200.4 shall be assessed as follows:

First Year	15% of Pre-Adjustment Value
Second Year	25% of Pre-Adjustment Value
Third Year	35% of Pre-Adjustment Value
Fourth Year	50% of Pre-Adjustment Value
Fifth Year	60% of Pre-Adjustment Value
Sixth Year	75% of Pre-Adjustment Value
Seventh Year	100% of Pre-Adjustment Value

6-203 EFFECTIVE DATE

This Ordinance is effective with the taxing period from July 01, 2021 through October 31, 2022 and shall be reflected with the taxes payable effective January 01, 2023 and each successive taxation year thereafter unless repealed by the City Council of the City of Philip, South Dakota.

Pursuit to SDCL 10-6-140, any real property receiving benefit from the previously adopted Discretionary Taxation Ordinance, will continue to be assessed and taxed through the course of the said discretionary formula.