

**ORDINANCE #1356**  
**AN ORDINANCE AMENDING CHAPTER 5.40 TOURIST CONVEYANCES**

**BE IT ORDAINED** by the Deadwood City Commission of the City of Deadwood, that Chapter 5.40 be amended as follows:

**Chapter 5.40**  
**TOURIST CONVEYANCES**

**5.40.010 Licenses -- Issuance -- Restrictions.**

The City Commission may issue annual licenses for tourist conveyance which offers or gives tours originating within the city, which licensees shall be limited and subject to the following:

A. The licenses will allow the licensee or their agent admittance to Mt. Moriah Cemetery for the purposes of conducting tours. The admittance to Mt. Moriah Cemetery shall be from May 1st through October 31st unless otherwise expressly permitted by the Sexton of Historic Cemeteries. Only tourist buses or conveyances licensed pursuant to this chapter shall be admitted to Mt. Moriah Cemetery unless authorized by the Sexton of Historic Cemeteries.

B. Unless otherwise established by resolution or ordinance, the number of licenses issued under this chapter shall be limited to no more than three (3) tour conveyance companies per calendar year. City Commission reserves the right to reduce the number of licenses if existing license is abandoned or revoked.

C. The City Commission shall have the authority to establish the parking areas and origination location for each license issued. The City Commission shall have the authority to establish the routes tour bus companies must take to and from Mt. Moriah Cemetery. In addition, licenses shall not be issued until each licensee provides the Chief of Police and the Sexton of Historic Cemeteries with a tour schedule. Each licensee shall arrive and depart according to the tour schedule to ensure proper flow of traffic. Each licensee may utilize a five (5) minute grace period for those scheduled times; each licensee has five (5) minutes before and after the times set in the submitted tour schedule to arrive and depart. Any requested or proposed changes to the approved schedule shall be submitted to the Chief of Police and the Sexton of Historic Cemeteries at least seven (7) days prior to such change taking effect. Violations of the subsection shall subject the licensee to suspension or revocation of its license under Section 5.40.060.

D. A tourist bus or conveyance not originating within the city, or originating in the city but giving tours outside of the city, shall not be subject to the license provisions of this chapter; however, such buses or conveyances shall not be admitted or allowed within Mt. Moriah Cemetery and must comply with the requirements of Section 5.44.010 of the Deadwood Municipal City Ordinance.

E. Each licensee shall be permitted to operate only one (1) vehicle at any one (1) time from assigned parking sites or origination location.

F. Each company shall be permitted to operate only one (1) vehicle on a regular basis in Mt. Moriah Cemetery at any one (1) time. If licensee's primary tour vehicle is disabled or requires maintenance, licensee may substitute or designate another tour vehicle until the primary tour vehicle is repaired and operable.

G. The licensee shall carry public liability insurance in the minimum amount of two million dollars (\$2,000,000.00) per accident and shall provide the city with evidence of such insurance before the issuance of each license with the City of Deadwood as an additional insured. The licensee shall also sign such indemnification agreement as the city desires that will hold the city harmless from any and all liability arising from or out of the operation of any such tour bus.

#### **5.40.030 Licensing policies and procedures**

A. Applications for licenses required by this chapter shall be made on official application forms prescribed provided by the ~~commission~~ City Commission.

B. All applications under this chapter shall be submitted to the commission Parking and Transportation Committee which shall issue a recommendation to the City Commission, which has discretion to approve or disapprove the applications.

C. Every application for a license shall be accompanied by the required application and associated fees in the amount established by the annual fee resolution.

D. Licenses granted pursuant to this chapter shall expire November 1st of each year.

#### **5.40.050 Transfer of license**

Any license granted under this chapter may be transferred to a new location or another person or entity only upon a vote of the majority of members of the Deadwood City Commission at their absolute discretion subject to 5.40.010(A).

#### **5.40.080 Standards of operation**

All licensees operating pursuant to the provisions of this chapter shall observe the following standards of operation:

A. Loudspeakers should shall be within sound levels in accordance with the City of Deadwood ordinance regulation noise;

B. Abusive, obnoxious, slanderous and/or vulgar language will not be allowed at any time;

- C. Operators must make a reasonable effort to allow traffic to flow in a normal manner on the city streets by pulling to the side of the road to allow traffic to pass safely;
- D. Operators within Mt. Moriah Cemetery must be conscious of other tour operators and patrons on foot within the cemetery, both in regard to safe operation of their vehicles and to allowing all foot patrons equal access to all sites within the cemetery without obstruction. Operators will be restricted to a maximum 30-minute time limit inside the cemetery during each tour;
- E. Operation of all vehicles will be in accordance with all state and federal motor vehicle regulations;
- F. Vehicles used for the operation of a Tourist Conveyance by the licensee as authorized by this ordinance shall be kept in good working order and professional appearance. Vehicles are subject to the inspection of the City upon request.
- G. The licensee shall be responsible for providing proper documentation as set forth by the Finance office and payments and associated fees as set forth by resolution to the city City of Deadwood for the admission fee set by resolution through the City Commission for all persons into Mt. Moriah Cemetery;
- H. Licensees shall supervise their operation so as to preserve the dignity of the City of Deadwood and Mt. Moriah ~~Cemeteries~~ Cemetery at all times.
- I. The City of Deadwood is committed to ensuring working conditions within the city's licensed tourist conveyance industry are safe; all workers, customers and city employees are treated with respect and dignity; and responsible business practices are followed.
- J. Violations to this Ordinance or other subsections of this chapter shall be reported through a formal written complaint process. All written complaints will be given to the Chief of Police who will in turn present the complaint to the Deadwood Parking and Transportation Committee (P&T). The P&T Committee will consider all facts of the complaint. If the P&T Committee deems the complaint to be valid, the committee may make a recommendation to the Deadwood City Commission for possible disciplinary actions against the offending licensed operator.
- K. Revocation: The annual license, once granted, may be revoked permanently or for a set period by the City Commission, at the recommendation of the Parking & Transportation Committee, after a hearing is held before the license holder. All such revocation hearings will take place at a public hearing as set by the City Commission. Such revocation may be based upon written complaints or by such incidents involving the licensee for matters involving violations to this ordinance code, property damage or other City OrdinanceCode violation which may involve

the licensee.

#### **5.40.090 Selection of licenses when applications are made.**

A. Preference to existing licensees. In granting a license under this chapter, preference shall be given to prior licensees in good standing

B. Selection of licensees when excess applications are made. When there are more applicants than licenses available pursuant to this chapter and after preference is given to existing licensees, the available license(s) will be awarded to a qualified operator(s).

1. A qualified licensee is one who:

- a. Demonstrates to the satisfaction of the City Commission sufficient business plan to actually engage in the tour conveyance business;
- b. Meets all other requirements of this chapter;
- c. Resides at the time of the application within the Lead-Deadwood School District 40-1.

2. If more applicants than licenses remain, licenses will be awarded according to the highest sealed bid, per criteria set by the City Commission.

#### **5.40.100 Non-use of license**

A. Any license granted pursuant to this chapter shall be deemed abandoned by the licensee if such license is not in active use by the licensee by June 1st of each respective year. Non-use shall result in revocation of such license by the ~~commission~~ City Commission in writing and issuance of a new license pursuant to the terms of this chapter.

B. Any license having no activity in Mt. Moriah Cemetery for any given ten (10) day period during June, July and August will be deemed abandoned with the exception of the official dates of the Sturgis Motorcycle bike rally in August.

#### **5.40.110 Violation—Penalty.**

The failure to obtain a license as required by this chapter or any other violation of this chapter shall subject the person failing to obtain the license or violating the ordinance to a Class 2 misdemeanor punishable by the maximum sentence as set forth in SDCL 22-6-2. Each day of operation without compliance with the terms of this chapter shall be deemed a separate offense.

| Dated this 5<sup>th</sup> day of July 2022.

CITY OF DEADWOOD

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David Ruth Jr., Mayor

ATTEST:

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Jessicca McKeown, Finance Officer

First Reading:	June 20, 2022
Second Reading:	July 5, 2022
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