

ORDINANCE NO. 1325
AN ORDINANCE AMENDING
BUSINESS IMPROVEMENT DISTRICT NO. 7 OF THE
CITY OF DEADWOOD, SOUTH DAKOTA

BE IT ORDAINED by the City of Deadwood, South Dakota;

SECTION 1: Pursuant to SDCL 9-55 Business Improvement District No. 7 of the City of Deadwood, South Dakota, was created in 2005.

SECTION 2: Business Improvement District No. 7 shall have the following boundaries, but excluding any bed and breakfast establishments:

Best Western Hickok House	137 Charles Street
Black Hills Inn and Suites	Highway 385 South
Branch House	37 Sherman Street
Bullock	635 Main Street
Butch Cassidy Suites	57 Sherman
Cadillac Jack's	360 Main Street
Cedarwood Inn	103 Charles Street
Celebrity Hotel	625 Main Street
Comfort Inn	225 Cliff Street
Deadwood Gulch Resort	304 Cliff Street
Deadwood Miners	137 Charles Street
Deadwood Mountain Grand	1906 Deadwood Mtn.
Deadwood Sports Book	51 Sherman Street
Deadwood Station	68 Main Street
Double Tree (Cadillac Jack's)	360 Main Street
First Gold/Travelodge	270 Main Street
Four Points by Sheraton	575 Main Street
Franklin Hotel	700 Main Street
Gold Country Inn	801 Main Street
Gold Dust Hotel/Pineview	25 Lee Street
Hampton Inn at Tin Lizzies	531 Main Street
Hickoks Hotel	685 Main Street
Historic Dwd Conv. Facility	37 Sherman Street
Holiday Inn Express	22 Lee Street
Hotel by Gold Dust	25 Lee Street
Iron Horse Inn	27 Deadwood Street
Lodge at Deadwood	100 Pine Crest
Martin Mason Hotel	37 Sherman
Mineral Palace	605 Main Street
Springhill Suites	360 Main Street
Super 8	196 Cliff Street
Terrace Motel	250 Main

~~The Mint~~ ~~638 Main Street~~
~~Thunder Cove Inn~~ ~~311-315 Cliff Street~~

All hotels, motels or lodging establishments not in the above list, which are built, constructed or established after the date of the establishment of Business Improvement District No. 7 shall automatically become a part of the District.

SECTION 3: A Resolution of Intent 2015-14, for the continuation of this district, was approved on the 21st day of September, 2015, and adopted after the public hearing on the 2nd day of November, 2015.

SECTION 4: Business Improvement District No. 7 is created for the purpose of funding a portion or all of the following future proposed public facilities, improvements and activities along with costs of acquisition, construction, maintenance, operation and repair of such improvements, facilities or activities:

Projected revenue (estimated at \$450,000.00) budgeted as follows:

\$ 20,000.00	Legal/Administrative
<u>\$480,000.00</u>	Marketing
\$500,000.00	Total Budget for 2016

SECTION 5: An occupational tax in the amount of Two Dollars (\$2.00) per night shall be imposed upon transient guests based upon rooms rented by any of the above hotels, motels or lodging establishments. This occupation tax shall be fair, equitable and uniform as to class. No occupational tax may be imposed on any transient guest who has been offered a room by a lodging establishment on a complimentary basis and no fee or rent was charged for such room. This tax rate shall be subject to establishment and adjustment by the Deadwood City Commission, by resolution upon recommendation from the Board of Business Improvement District No. 7.

SECTION 6: The Deadwood City Finance Officer is authorized and directed, with the advice and recommendations of the Board of Business Improvement District No. 7, to determine and compute the tax in accordance with this ordinance. The occupational tax assessed pursuant to the terms of this ordinance shall be remitted by the 20th day of each month to the Deadwood City Finance Officer, with the remittance to be for the previous calendar month's tax collections. The City Finance Officer and the Board of Business Improvement District No. 7 or its designee or any person or firm contracted by the City Finance Officer and the Business Improvement District Board shall be entitled to audit the books, ledgers, or franchise reports of any hotel, motel or lodging establishment subject to the terms of this act, including the right to inspect daily reports of such hotels and motels so as to ensure that the occupancy tax assessed by this act is being properly remitted to the City of Deadwood. The City Finance Officer shall be entitled to seek injunctive relief against any hotel, motel or lodging establishment which does not remit the proper amount of tax monies when due, which relief may be in the form of an action requiring the offending hotel or motel owner to allow entry upon their property and access to their records, computers, or books so as to verify that the hotel, motel or lodging establishment is remitting all monies it collects pursuant to this ordinance and the laws of the State of South Dakota. Each hotel, motel or lodging establishment subject to this ordinance shall keep accurate records of amounts collected from transient guests for review by the City Finance Officer or its designee, pursuant to this ordinance.

SECTION 7: All remittances of occupancy tax collected pursuant to this ordinance shall be due and received in the office of the City of Deadwood Finance Officer on or before the 20th day of the month following the month for which the occupancy tax remittances are due. All amounts that are not received on or before the 20th day of the month will be charged a late fee in the

amount of ten percent (10%) of the total amount due with minimum fee of \$10.00. Failure to pay such tax shall also constitute a violation of this ordinance which may be punishable by a fine, not to exceed Five Hundred Dollars (\$500.00), to be paid to the City of Deadwood. Any unpaid balance under this ordinance shall constitute a lien upon the property owned by the business or user of space being taxed and shall become a lien against and shall run with the property and may be enforced and collected in the same manner as other unpaid real property taxes and assessments. The City of Deadwood Finance Officer shall certify all unpaid amounts or balances to the county treasurer for collection in the same manner as general property taxes are collected. Further, the City of Deadwood shall have the ability to deny the issuance of any permits or licenses or any renewals thereof to any business or premise that fails to conform to the provisions of this ordinance, including, but not limited to, building permits, malt beverage licenses, and liquor licenses.

SECTION 8: Nothing within the body of this ordinance shall be construed as limiting of any other rights which the City of Deadwood has, or may pursue in seeking collection of monies received but not paid under the terms of this ordinance. In the event that this tax becomes subject to supervision by the State of South Dakota through the State's Department of Revenue, any rights which Deadwood has herein shall be deemed cumulative to any powers which inure to the benefit of the State.

SECTION 9: In the event of any civil or criminal action being filed seeking collection of any delinquent assessments, the offending hotel, motel or lodging establishment shall be responsible for and pay all attorney's fees and costs incurred by the City of Deadwood in seeking payment under the terms of this ordinance.

SECTION 10: All costs incurred by the City of Deadwood or the City Finance Officer or the Board pursuant to this ordinance shall be paid from occupancy taxes collected under this ordinance.

SECTION 11: Each hotel, motel or lodging establishment shall account for complimentary rooms which are also subject to audit by the City Finance Officer and the Board of Business Improvement District No. 7 or its designee or contractor with such records to show the basis for offering such room on a complimentary basis.

SECTION 12: The City Finance Officer of the City of Deadwood is directed to prepare and publish a Notice of Levy of the general business occupation tax, with such notice to be published pursuant to SDCL 9-55-13. A hearing shall be held upon the general business occupation tax levy on the 7th day of December, 2015, at 5:00 p.m., at the City Commission chambers located at 102 Sherman Street in the City of Deadwood, South Dakota, to hear any objections or protests by businesses and users of space upon which the occupation tax is imposed.

SECTION 13: Should any section, clause or provision of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part declared to be invalid.

SECTION 14: Any business governed by this ordinance shall sign a sworn statement to be submitted along with the remittance for any tax imposed by this ordinance on or before the 20th day of each month stating as follows:

I declare, under penalty of perjury, that the above accounting of rooms rented is accurate and the tax payment made herein is accurate to the best of my knowledge according to my business records.

Signed _____

Date _____

Title _____

Dated this 3rd day of May, 2021.

CITY OF DEADWOOD

Dave Ruth Jr., Mayor

ATTEST:

Jessica McKeown, City Finance Officer

First Reading: May 17, 2021
Second Reading: June 7, 2021
Published: June 10, 2021
Effective: June 30, 2021