

**CITY OF DEADWOOD
ORDINANCE 1431**

NOW THEREFORE, be it ordained by the City Commission of the City of Deadwood, in the State of South Dakota, as follows:

SECTION 1: ADOPTION “2.08.044 Enforcement - Violation - Penalty” of the Deadwood Municipal Code is hereby *added* as follows:

ADOPTION

2.08.044 Enforcement - Violation - Penalty(*Added*)

1. The City Officers and/or Department Heads are authorized and directed to enforce all provisions of the Ordinances of the City of Deadwood

2. Removal - Notice - Lien. The City Officers and/or Department Heads or their designee, in the case of any violation of these ordinances, shall take immediate steps to require compliance, including the immediate removal of any violation that does not conform with the provisions of these ordinances without prior notice to the owner thereof.

1. If the City Officer and/or Department Head or their designee finds any on premise sign is in violation of the provisions of this chapter, they shall give written notice by registered or certified mail to the owner or person with legal possession of the property where the violation is located. If such person fails to correct the violation so as to comply with these ordinances within five days after receipt of such notice, or within such longer time period as is specified in the notice, the City Officers and/or Department Heads shall cause such violation to be corrected at the expense of the property owner and the person with legal possession of the property, and shall, upon the determination of such expense, certify the same to the finance officer.

2. The finance officer shall notify the owner or the person with legal possession of the property of the total costs incurred for such correction of the violation, and if that person fails within thirty (30) days after the date of the notification to pay the entire costs and expenses of such removal, then such costs and expenses shall become a lien against and shall run with the property, and the finance officer shall certify the same to the applicable county treasurer for collection in the same manner as general property taxed are collected.

3. The amount certified by the finance officer to the county treasurer for collection shall include the actual costs to correct the violation, plus twenty-five (25) percent to cover administrative costs, penalties, collection costs, and interest or as set by resolution.

3. Other Penalties. In addition to any other penalties provided here in for the violation of these ordinances, the city shall have the ability to deny the issuance of any permits or licenses or any

renewals thereof to any business or premises that fail to conform to the provisions of these ordinances, but not limited to building permits, business licenses, malt beverage and liquor licenses. Any person or entity found to be in violation of these ordinances shall be subject to a fine of not more than that established for class 2 misdemeanors under state law. Each violation shall be a separate offense. Each day during which the violation remains shall remain a separate offense.

4. Administrative Citations. The City Officers and/or Department Heads or their designee may employ the provisions of this section to secure compliance with the ordinances. This section permits administrative citations and fines in addition to all other legal remedies criminal or civil, under state statute or Deadwood municipal ordinances and the use of this section shall be at the sole discretion of the City Officer and/or Department Head.

1. Warning of an Administrative Citation.

1. Whenever the City Officer and/or Department Head determines that a violation of these ordinances has occurred, the City Officer and/or Department Head may issue a written warning of an administrative citation to any person or legal representative responsible for the violation. A warning shall serve as a prerequisite to the issuance of a first administrative citation.

2. In the City Officer and/or Department Head's sole discretion, the following dispute resolution process may be utilized. The City Officer and/or Department Head may schedule a meeting that shall be attended by the complainant the owner or legal representative responsible for the violation with the City Officer and/or Department Head and a city-appointed facilitator. If the cited violation can be resolved as a result of this meeting, all formal enforcement proceedings shall be suspended, pending successful implementation of the resolution reached at the dispute resolution meeting. If the violation cannot be resolved in a satisfactory manner, formal enforcement proceedings shall again commence. Failure of the responsible party to attend the dispute resolution meeting shall be cause for formal enforcement procedures to continue to the next appropriate step.

3. The City Officer and/or Department Head shall allow 10 days to correct the violation after considering the circumstances of the case, prior to the issuance of an administrative citation. A warning shall not be required before the issuance of a second or subsequent administrative citation for a continuing or repeated violation.

4. A warning shall include the same information required under subsection 2.b. of this section, as well as the following: 1. A time limit by which the violation shall be corrected, after which an administrative citation may be issued if the violation is not fully corrected. 2. A statement that the city intends to charge the person and/or owner for all administrative costs associated with the code violation.

2. Administrative Citation.

1. Whenever the City Officer and/or Department Head determines that a violation has occurred, the City Officer and/or Department Head may issue an administrative citation to the owner or legal representative for the violation provided that any required warning has first been issued. Each and every day a violation of the Deadwood Municipal Ordinance is committed, constitutes a separate and distinct violation for which an administrative citation may be issued.

2. Each administrative citation shall contain the following information:

1. The date of the violation;
2. The address and description of the location where the violation occurred;
3. The code section(s) violated and a description of the violations;
4. A description of how the violation may be remedied;
5. Any fines assessed for the code violation;
6. The time and place for payment of the fine assessed;
7. A Court date for the violator to contest the citation; and
8. The name and signature of the citing enforcement officer.

3. Service of Warning or Administrative Citation. Service (delivery) of a warning or an administrative citation may be accomplished by any of the following methods:

1. Personal Service. The City Officer and/or Department Head, or an authorized designee, may obtain the signature of the person and/or legal representative responsible for the code violation on the administrative citation. If the legal representative and/or owner refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of service nor of the citation and subsequent proceedings.
2. If personal service as defined herein cannot be obtained, service by first class mail is permitted by (a) deposit in the United States mail, in a sealed envelope sent first class postage prepaid to the address of the legal representative and/or owner at the last-known business or residence address as the same appears in the current public records or other records pertaining to the matter to which the notice is directed in the alternative, the City Officer and/or Department Head, or an authorized designee may serve the owner or legal representative a copy of the administrative citation by placing the same in a conspicuous place on the property at which the violation is located. Service by mail and posting shall be deemed to have been completed at the later of either the time of deposit in any official United States postal box or the time of posting. The failure of the responsible person and/or owner to receive a properly addressed and mailed or posted administrative

citation shall not affect the validity of the service nor of the citation and subsequent proceedings. Failure of a posted notice to remain in place after posting shall in no way affect the validity of the service no of the citation and subsequent proceedings.

SECTION 2: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from _____ and after the required approval and publication according to law.

PASSED AND ADOPTED BY THE CITY OF DEADWOOD CITY COMMISSION

_____.

Presiding Officer

Attest

Alea Struble, Mayor, City of
Deadwood

Jessica McKeown, Finance Officer,
City of Deadwood