

**ORDINANCE NO. 1341
AN ORDINANCE AMENDING BUSINESS
IMPROVEMENT DISTRICT NO. 9 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. 9 of the City of Deadwood, South Dakota, is hereby created.

SECTION 2: Business Improvement District No. 9 shall have the following boundaries:

Transient Commercial Property Owners-hotels & motels

Group 1

BH Inn & Suites	206 Shadow Lane
Branch House	37 Sherman Street
Celebrity Hotel	629 Main Street
Deadwood Cottages	390 Main Street
Deadwood Cottages	388 Main Street
Deadwood Miners	137 Charles Street
Deadwood Rentals	36 Water Street
Trucano B & B	124 Charles Street

Group 2

Bullock Hospitality	633-635 Main Street
Deadwood Gulch Gaming Resort	304 Cliff Street
Deadwood Mountain Grand	1906 Deadwood Mtn Dr.
Deadwood Station	68 Main Street
Doubletree By Hilton	360 Main Street
First Gold Hotel/Travelodge	270 Main Street
Four Points Hotel	575 Main Street
Franklin Hotel	709 Main Street
Gold Dust Hotel/Pineview	23 Lee Street
Gold Country Inn	801 Main Street
Hampton Inn at Tin Lizzies	555 Main Street
Hickok's Hotel & Casino	685 Main Street
Holiday Inn Express	22 Lee Street
Iron Horse Inn	27 Deadwood
Lodge at Deadwood	100 Pine Crest Lane
SpringHill Suites by Marriott	322 Main Street
Tru by Hilton	372 Main Street

Non-Transient Commercial Property Owners

Berg Jewelry and Gift	650 Main Street
Black Hills Novelty, LLC	69 Sherman
Deadwood Harley	681 Main Street
Fun Time (David Barth)	29 Lee Street
Jacobs Gallery	670 Main Street
JVK Holdings	596 Main Street
Madam Peacock's	638 Main Street
Midnight Star	677 Main Street
Isaac Almanza	696 Main Street
Patchstop, LLC	666 Main Street
Pink Door 629	625 Main Street
RE Center of DWD	11 Charles Street
Saloon No. 10	657 Main Street

Any lodging or non-lodging establishments not listed but can become a part of this district and included in boundaries by petition and approval of City Commission.

SECTION 3: A Resolution of Intent 2019-09, for the continuation of this district, was approved on the 18th day of March, 2019, and adopted after the public hearing on the 6th day of May, 2019.

SECTION 4: Business Improvement District No. 9 is created for the purpose of funding Main Street revitalization efforts focusing on the promotion and operation of the Outlaw Square.

The total estimated or proposed costs for the above projects and activities is projected to be annually, with the revenues from the occupancy tax to fund some or all of the above projects and activities.

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 in Group 1.

An occupational tax in the amount of One Dollar (\$1.00) per night shall be imposed upon transient guests based upon rooms rented by any of the above hotels, motels or lodging establishments in Group 2. 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. 9.

And a general occupation tax based on the linear front footage of the above described non-gaming establishments. The amount of the tax shall be \$50 per month for each non-lodging establishment which has 30 or less linear feet of front footage, and shall be \$75 per month for each non-lodging establishment with more than 30 linear front footage feet.

SECTION 6: The Deadwood City Finance Officer is authorized and directed, with the advice and recommendations of the Board of Business Improvement District No. 9, 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. 9 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 or non-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, motel or non-lodging establishment owner to allow entry upon their property and access to their records, computers, or books so as to verify that the hotel, motel, lodging, or non-lodging establishment is remitting all monies it collects pursuant to this ordinance and the laws of the State of South Dakota. Each hotel, motel, lodging or non-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. 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), 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 and frontage foot taxes collected under this ordinance. An annual administration fee of \$10,000.00 will be paid to City of Deadwood Finance Department to offset legal and administration expenses.

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. 9 or its designee or contractor with such records to show the basis for offering such room on a complimentary basis.

SECTION 12: 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 13: 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 _____

SECTION 14: This ordinance shall be effective on the 1st day of January, 2022.

Dated this 20th day of December, 2021.

CITY OF DEADWOOD

David Ruth, Jr., Mayor

ATTEST:

Jessica McKeown, Finance Officer

First Reading: December 6, 2021
Second Reading: December 20, 2021
Published: December 23, 2021
Adopted: January 12, 2022