

**CITY OF DEADWOOD
ORDINANCE 1370**

**AMEND CHAPTER 17.53 TRANSIENT COMMERCIAL USE OF RESIDENTIAL
PROPERTY UNDER TITLE 17 ZONING**

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

SECTION 1: **AMENDMENT** “17.53.010 Purpose” of the Deadwood Municipal Code is hereby *amended* as follows:

A M E N D M E N T

17.53.010 Purpose

The purpose of this chapter is to:

- A. ~~Preserve and enhance the character of the residential districts.~~ Preserve the historic character and protect the City of Deadwood's local, state and national historic districts and resources including the Deadwood National Historic Landmark District.
- B. ~~Promote the public health, safety, and general welfare of the city.~~ Protect the community-oriented, family friendly quality and values of the neighborhoods within Deadwood.
- C. ~~Expressly prohibit transient commercial use of residential property for remuneration, which uses are inharmonious with and injurious to the preservation of the residential character and environment of the city.~~ Balance the rights of property owners and neighbors.
- D. Retain a strong housing stock available for families, full-time residents, and the local workforce.
- E. Support a balance between owner-occupied / long-term rentals and the tourism-oriented industry which fuels Deadwood's economy.
- F. Grow the community to provide a variety of housing options while ensuring the infrastructure needs of Deadwood are maintained.

(Ord. 1022 (part), 2004)

SECTION 2: **AMENDMENT** “17.53.020 Definitions” of the Deadwood Municipal Code is hereby *amended* as follows:

A M E N D M E N T

17.53.020 Definitions

- A. Except as otherwise defined or where the context otherwise indicates, the following defined words shall have the following meaning:

"Bed and Breakfast establishment" is defined under Chapter 17.08.010.

"Person" means an individual, a group of individuals, or an association, firm, partnership, corporation or other entity, public or private.

"Remuneration" means compensation, money, rent, or other bargained for consideration given in return for occupancy, possession, or use of real property.

"Residential property" means any single-family dwelling unit or structure located on one or more contiguous lots of record within the R-1 residential district and R-2 multi-family residential district.

"Short-Term Rentals" is defined under Chapter 17.08.010.

"Specialty resort" is defined under Chapter 17.08.010.

"Transient" means a period of time less than thirty (30) consecutive calendar days.

"Transient commercial use of property" means the commercial use, by any person, of residential property for bed and breakfast, hostel, hotel, inn, lodging, motel, resort or other transient lodging uses where the term of occupancy, possession or tenancy of the property by the person entitled to such occupancy, possession or tenancy of the property by the person entitled to such occupancy, possession or tenancy is for less than thirty (30) consecutive calendar days.

"Vacation home establishment" is defined under Chapter 17.08.010.

- A. The definitions herein include the singular and plural meanings of each defined word.

(Ord. 1022 (part), 2004)

SECTION 3: **AMENDMENT** "17.53.030 Permission" of the Deadwood Municipal Code is hereby *amended* as follows:

AMENDMENT

17.53.030 Permission

~~Transient commercial use of residential property for remuneration is prohibited in the residential land use districts, except as otherwise expressly permitted by this ordinance.~~

A. Bed and Breakfast Establishment

1. No bed and breakfast establishment shall be located on a lot closer than two hundred (200) feet from any other structure containing a bed and breakfast establishment in R1 and R2 zoning districts;
2. Applicants proposing tandem parking shall be required to provide a control board for the keys of the guests. The owner/manager shall be responsible for the control board; and,
3. Existing Bed and Breakfast establishments, operating and approved by the City of Deadwood prior to April 1, 2023, and in continuance use, shall remain authorized if the existing locations do not meet A.1 above until conditions outlined in Chapter 17.76 take effect.

B. Specialty Resort Establishment

1. Specialty Resort establishments are strictly prohibited in R1 and R2 zoning districts.
2. Existing specialty resort establishments, operating and approved by the City of Deadwood prior to April 1, 2023, and in continuance use, shall remain authorized until conditions outlined in Chapter 17.76 take effect.

C. Vacation Home Establishment

1. Vacation Home Establishments are strictly prohibited in R1 and R2 zoning districts with the exceptions under 17.53.040.
2. Vacation Home Establishments shall be located in upper floors of commercial structures only within the local historic district.
3. Existing Vacation Home Establishments, operating and approved by the City of Deadwood prior to April 1, 2023, and in continuance use, shall remain authorized conditions outlined in Chapter 17.76 take effect.

D. All Short Term Rentals (Bed and Breakfast Establishments, Specialty Resort Establishments and Vacation Home Establishments shall comply with the following:

1. The Deadwood building inspector shall have the right to inspect the premises to ensure compliance with the Building Code under Title 15.
2. First floor use for short-term rentals are prohibited within the local historic district as defined under this Title.
3. The subject property proposed for a short-term rental shall be required to provide the following:
 - a. Obtain a Conditional Use Permit from the City of Deadwood through the process established in Chapter 17.76;
 - b. Establishment of commercial water, sewer, and refuse accounts, if they have not been established for subject premises;
 - c. Proof of required South Dakota state tax certificates which shall be provided to the planning and zoning office for their files;
 - d. Proof of Lodging License from the South Dakota Department of Health which shall be provide to the planning and zoning office for their files;

- e. Proof of enrollment with business improvement district(s) as a short-term rental establishment; and,
- f. Obtaining and maintaining City of Deadwood business license and short-term rental licenses.

(Ord. 1022 (part), 2004)

SECTION 4: **AMENDMENT** “17.53.040 Exception” of the Deadwood Municipal Code is hereby *amended* as follows:

AMENDMENT

17.53.040 Exception

- A. This ordinance shall not apply to transient commercial use of residential property for remuneration for a period of fourteen (14) days or less during the month of August, commencing four days immediately preceding the official start of the Sturgis Motorcycle Rally and ending three days after the end of the Sturgis Motorcycle Rally each year.
- B. Vacation home establishments may be allowed in planned unit developments with an approved plan through the planning and zoning commission and city commission where said vacation home establishments are adjacent and contiguous to one another with the percentage of lots dedicated to vacation home establishments not exceed 10% of the total number of lots within the planned unit development.
- C. Vacation home establishments shall remain prohibited in R1 and R2 zoning districts within the boundaries of the Deadwood City Limits established as of January 1, 1989 per SDCL 42-7B-4(9).

(Ord. 1022 (part), 2004)

SECTION 5: **AMENDMENT** “17.53.050 Liability And Enforcement” of the Deadwood Municipal Code is hereby *amended* as follows:

AMENDMENT

17.53.050 Liability And Enforcement

- A. Any person or legal entity acting as agent, real estate broker, real estate sales agent, property manager, reservation service or otherwise who arranges or negotiates for the use of residential property in violation of the provisions of this section ~~is~~ shall be guilty of ~~an infraction~~ a violation as defined in this chapter for each day in which such

residential property is used, or allowed to be used, in violation of this ~~section~~chapter.

- B. Any person or legal entity who uses, or allows the use of residential property in violation of the provisions of this ~~section is~~ chapter shall be guilty of ~~an infraction a violation as defined in this chapter~~ for each day in which such residential property is used, or allowed to be used, in violation of this ~~section~~chapter.

(Ord. 1022 (part), 2004)

SECTION 6: AMENDMENT “17.53.060 Violation--Penalty” of the Deadwood Municipal Code is hereby *amended* as follows:

AMENDMENT

17.53.060 Violation--Penalty

Citations will be issued to any person or legal entity who violates this title or any amendment hereto. The ~~violation~~person or legal entity, upon being found guilty, shall be punished as for a misdemeanor, and any court having jurisdiction of misdemeanor cases shall have jurisdiction to try ~~violators~~said person or legal entity and upon finding them guilty, ~~may penalize them with a fine not exceeding two hundred dollars (\$200.00) or by imprisonment not exceeding thirty (30) days or by both such fine and imprisonment~~shall be guilty of a Class 2 misdemeanor punishable by the maximum sentence as set forth in SDCL 22-6-2. Each day that any violation of this title is in effect shall constitute a separate offense.

(Ord. 1022 (part), 2004)

SECTION 7: SEVERABILITY CLAUSE Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 8: EFFECTIVE DATE This Ordinance shall be in full force and effect from May 24, 2023 and after the required approval and publication according to law.

SECTION 9: First Reading: April 17, 2023 Second Reading: May 1, 2023 Published: May 4, 2023 Effective: May 24, 2023

PASSED AND ADOPTED BY THE CITY OF DEADWOOD CITY COMMISSION

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Presiding Officer

Attest

David Ruth Jr., Mayor, City of
Deadwood

Jessica McKeown, Finance Officer,
City of Deadwood