

ORDINANCE NO. 1249

**AN ORDINANCE CONTINUING
BUSINESS IMPROVEMENT DISTRICTS NOS. 1, 2, 3, 4, 5 and 6
WITHIN THE CITY OF DEADWOOD AND
ESTABLISHING ASSESSMENTS, Section 3.16, Deadwood Codified Ordinance, Business
Improvement District 1-6 FOR 2016**

BE IT ORDAINED by the City of Deadwood, South Dakota, as follows:

- 3.16.010 Establishment of District
- 3.16.020 Boundaries of District
- 3.16.030 Purpose of District
- 3.16.040 Board
- 3.16.050 Imposition of Tax/Special Assessments
- 3.16.060 Collection and Due Date
- 3.16.070 Penalties for Failure to Pay
- 3.16.080 Severability

3.16.010 Establishment of District

There has been previously created, pursuant to SDCL Chapter 9-55, as amended, six (6) business improvement districts within the City of Deadwood, South Dakota, which districts have been known as Business Improvement District No. 1, Business Improvement District No. 2, Business Improvement District No. 3, Business Improvement Business Improvement District 4, Business Improvement District No. 5 and Business Improvement District No. 6; and the City Commission of the City of Deadwood, having adopted a RESOLUTION OF INTENT TO CONTINUE NEW BUSINESS DISTRICTS, ESTABLISH THE LEVY OF THE BUSINESS OCCUPATION TAX, AND ESTABLISH RATES FOR 2016 FOR BUSINESS IMPROVEMENT DISTRICTS on the 21st day of September, 2015 and all previous years since 1991, and having given notice as required by South Dakota law of a hearing on said Resolution of Intent and holding such hearing the 2nd day of November, 2015; and as a result of said hearing the Resolution of Intent adopted September 21, 2015 was approved by the City Commission of the City of Deadwood.

3.16.020 Boundaries of District

A description of the boundaries for each of the districts shall be as follows:

Business Improvement District No. 1: All hotels, motels, lodging establishments and gaming establishments **located within the city limits of Deadwood, applied to all gaming devices and hotel rooms located the city limits and affiliated with or have common ownership with any gaming establishment or property.** on both sides of Main Street between and including 607 Main Street to 709 Main Street.

Business Improvement District No. 2: All other hotels, motels and lodging establishments located within the City of Deadwood in which gaming devices are located, and affiliated with or connected to or have common ownership with any gaming establishment or property and the following additional properties:

----- 555 Main Street ----- Tin Lizzie
----- 560 Main Street ----- Deadwood Gulch Saloon
----- 27 Deadwood ----- Deadwood Iron Horse Inn

All other hotels, motels and lodging establishments located within the city limits of Deadwood applied to all gaming devices located in a business with common or unrestricted access within the business premises, excepting the first fifty (50) such gaming devices, including the following businesses existing as of the date of this ordinance and any future similar businesses meeting the same criteria, in which gaming devices are located, and affiliated with or connected to or have common ownership with any gaming establishment or property and the following additional properties:

----- 555 Main Street ----- Tin Lizzie
----- 560 Main Street ----- Deadwood Gulch Saloon
----- 27 Deadwood ----- Deadwood Iron Horse Inn

Business Improvement District No. 3: All hotels, motels, lodging establishments, and bed and breakfast establishments within the **city limits of** City of Deadwood which do not have gaming devices.

Business Improvement District No. 4: **Each gaming establishment leasing a city slot machine as determined by sealed bid or auction conducted by the City of Deadwood.** All gaming devices located in a business with common or unrestricted access within the business premises, excepting the first fifty (50) such gaming devices, including the businesses existing on the date of this ordinance, and any future similar businesses meeting the same criteria. This includes the following properties:

----- 658 Main ----- Buffalo/Bodega
----- 635 Main ----- Bullock Hospitality
----- 360 Main ----- Cadillac Jacks
----- 625 Main ----- Celebrity Hotel
----- 304 Cliff ----- Deadwood Gulch Gaming Resort
----- 560 Main ----- Deadwood Gulch Saloon

1906 Deadwood Mountain	Deadwood Mountain Grand
270 Main	First Gold
688 Main	Gold Dust Gaming
663 Main	Gold Dust Lodging/Holiday Inn Express
685 Main	Hickok's Saloon
100 Pine Crest Lane	Lodge at Deadwood
677 Main	Midnight Star
605 Main	Mineral Palace
709 Main	Silverado/Franklin
196 Cliff	Super 8 Lodge
531 541 Main	Tin Lizzie Gaming Resort
9 Lee	Wooden Nickel/Martin Mason

Business Improvement District No. 5: Gaming establishment known as the VFW located at 10 Pine Street.

10 Pine Street VFW

Business Improvement District No. 6: inactive

3.16.030 Purpose of District

The Business Improvement Districts 1-6 have been created for projects and uses allowed by SDCL 9-55. The estimated revenues to be raised and previous revenues to be carried forward by the Business Improvement Districts in 2016 are \$604,485.00 and the estimated costs for activities and promotions within the Business Improvement Districts are as follows:

Business Improvement Districts Nos. 1, 2, 3, 4, 5 and 6:

Administrative and Legal Expenses	\$ 16,108.00
Deadwood Chamber of Commerce and Visitors' Bureau Marketing	\$ 572,269.00
Contingency	\$ 16,108.00
TOTAL	\$ 604,485.00

City Slot Machines locations at the following businesses:

360 Main Street	Cadillac Jacks
250 Main Street	First Gold
100 Pine Crest Ln	Lodge at Deadwood
607 Main Street	Silverado/Franklin
557 Main Street	Tin Lizzies

3.20.040 Board

A. There is hereby created a Business Improvement Board 1-6. Members of the board shall consist of all persons or business paying assessments levied by the Business Improvement District. Members shall select a board consisting of not less than five (5) nor more than twenty-five (25) members.

B. The persons which serve as members on this board shall be elected for one (1) year terms at the Annual Meeting of the Business Improvement District and elected persons names shall be submitted to the Mayor with approval of the City Commission, for appointment.

B. The board shall annually select from its members a chair, vice chair, and secretary to be elected by the Business Improvement District board for one (1) year terms.

3.20.04050 Imposition of Tax/Special Assessments

A. The general business tax shall be imposed upon all gaming businesses containing gaming devices located within the six districts licensed by the South Dakota Commission on Gaming, all hotels, motels or other businesses offering lodging accommodations within the city for periods of less than twenty-eight (28) consecutive days, bed and breakfast lodging units, and all businesses containing video lottery machines licensed by the South Dakota Video Lottery Commission located within the six (6) districts.

B. The imposition of the assessment/tax for the six Districts shall be as follows:

A. District No. 1: Tax at the rate of \$100.00 per year or \$5.00 ~~5.50~~ per year per square foot for 20 square feet for each gaming device, slot machine, 21 table or poker table, or video lottery machine, excepting municipal five cent machines. Motels, hotels and bed and breakfast establishments shall pay \$50.00 per year per room or \$.1672165 per square foot per motel, hotel, or bed and breakfast lodging units using 300 square feet for each room.

B. District No. 2: Tax at the rate of \$25.00 per year or \$1.25 per square foot on 20 square feet for each gaming device, slot machine, 21 table or poker table, or video lottery machine, excepting municipal slot machines which shall be applied to all gaming devices located in a business with common or unrestricted access within the business premises, excepting the first fifty (50) such gaming devices, including the following businesses existing as of the date of this ordinance, and any future similar businesses meeting the same criteria. Tax at the rate of \$100.00 per year or \$5.00 per year per square foot for

~~20 square feet for each gaming device, slot machine, 21 table or poker table, or video lottery machine, excepting municipal five-cent machines. Motels, hotels, and bed and breakfast establishments shall pay \$50.00 per year per room or \$.166 per square foot per motel, hotel, or bed and breakfast lodging units using 300 square feet for each room.~~

C. District No. 3: Motels, hotels, and bed and breakfast establishments shall pay \$35.00 per year per room or \$.1166 per square foot per year per motel, hotel, or bed and breakfast lodging unit using 300 square feet for each room.

District No. 4: **A tax at the rate of \$2,000.00 per year or \$100.00 per square foot for twenty square feet for each city or municipal slot machine as determined by sealed bid or auction conducted by the City of Deadwood.**

~~Tax at the rate of \$25.00 per year or \$1.25 per square foot on 20 square feet for each gaming device, slot machine, 21 table or poker table, or video lottery machine, excepting municipal slot machines which shall be applied to all gaming devices located in a business with common or unrestricted access within the business premises, excepting the first fifty (50) such gaming devices, including the following businesses existing as of the date of this ordinance, and any future similar businesses meeting the same criteria:~~

C. District No. 5: **Tax at the rate of \$50.00 per year or \$2.50 per square foot on 20 square feet for each gaming device, slot machine, 21 table or poker table, or video lottery machine, excepting municipal slot machines.**

E. District No. 6: ~~Inactive-A tax at the rate of \$2,000.00 per year or \$100.00 per square~~ ~~foot for twenty square feet for each city or municipal slot machines~~ ~~located at the~~ ~~following businesses:~~

_____	Cadillac Jack's	_____	360 Main Street
_____	First Gold	_____	250 Main Street
_____	Lodge At Deadwood	_____	100 Pine Crest Lane
_____	Silverado/Franklin	_____	607 Main Street
_____	Tin Lizzie's	_____	557 Main Street

C. Assessments as set forth above shall be determined by the number of games and video lottery machines licensed by the South Dakota Commission on Gaming and the South Dakota Lottery

Commission as of the 1st day of January in each year, 2016, for the first six (6) months of 2016; and as of the 1st day of July in each year, 2016 for the second six (6) months of 2016; with adjustments to be made for licenses added or deleted on the 1st day of the month following the addition or deletion.

3.16.060 Collection and Due Date Assessments shall be billed and collected monthly by the City Finance Officer with the annual assessment to be paid in monthly installments due on the 10th day of each month ~~beginning with the 10th day of January, 2016~~, and like installments due on the 10th day of each following month. ~~through January 10, 2017.~~

3.16.070 Penalties for failure to pay.

A. All assessments shall be due and payable on or before the 10th day of the month following the month for which the assessment is due. All amounts not paid by the due date will be charged a late fee in the amount of fifteen percent (15%) of the amount due which shall be added to all past due charges. Failure to pay such tax and fees 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.

B. Additionally, any person, partnership or corporation whose duty is made by this chapter to pay any license tax and who does not pay the same shall be liable for an action for the recovery of the amount of such license tax, provided such remedy shall not be deemed as being concurrent with other remedies herein provided. An 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.

C. In the event legal action is required to collect delinquent assessments, the establishment failing to pay will be responsible for and pay all attorney's fees and costs incurred by the City in collecting the unpaid tax. The 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 failure to pay assessment, including, but not limited to, building permits, malt beverage licenses, and liquor licenses.

~~SECTION XI: The Business Improvement Districts have been established pursuant to the provisions of SDCL 9-55 as amended.~~

~~SECTION XII: The business occupation tax as stated above is hereby imposed upon the above-described businesses within the six (6) Business Improvement Districts, which tax shall be due and payable as set forth above. It is hereby made the obligation and duty of every person, partnership, firm or corporation engaged in any business or occupation within the limits of the taxing districts as provided, on which a business occupation tax is levied by this Ordinance, to pay said tax at the times provided for payment of the same herein.~~

~~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.~~

3.16.080 Severability. Should any section, clause or provision of this Ordinance be declared by any court of competent jurisdiction to be invalid, such declaration shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

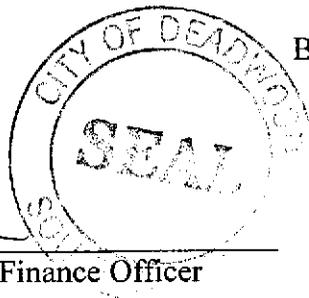
Dated this 17th day of October, 2016.

CITY OF DEADWOOD

By: Charles Turbiville
Charles Turbiville, Mayor

ATTEST

Mary Nelson
Mary Nelson, City Finance Officer



First Reading: October 3, 2016
Second Reading: October 17, 2016
Published: October 20, 2016
Adopted: November 9, 2016