

(Title 26 replaced entirely with Ordinance 2017-03, effective 05-31-2017)

**TITLE 26
DOWNTOWN BUSINESS IMPROVEMENT DISTRICT**

CHAPTERS:

- 26.01 General Provisions
- 26.02 Downtown Improvement District
- 26.03 Hotel and Motel Improvement District

**Chapter 26.01
GENERAL PROVISIONS**

SECTIONS:

- 26.01.01 Purpose and Authority
- 26.01.02 Penalties
- 26.01.03 Severability

26.01.01 PURPOSE AND AUTHORITY:

The Sturgis City Council, as allowed by SDCL Chapter 9-55, is authorized to by resolution create one or more Business Improvement Districts within the City. The purpose of the authorizing resolution shall be to create a collective funding method to provide a portion or all of the funding needed for proposed future public events, public activities, beautification efforts, economic development efforts and activities, and all other uses for such funding as permitted by SDCL 9-55-3. Each such resolution leading to the establishment of a district shall state the purpose and funding mechanism, if any, and other required elements to fully establish the district.

26.01.02 PENALTIES:

Any person in violation of this Title shall be subject to the general penalty provision of SDCL 22-6-2, for a violation of a class two misdemeanor. In addition, the city may seek to enjoin the actions of any person or operation which violate the provisions of this Ordinance. Each day for which a person is in violation of any provision of this Ordinance may constitute a separate offense. The City may also impose and enforce any penalty for a violation of this Ordinance under the provision of Title 36, of Sturgis City Ordinances.

26.01.03 SEVERABILITY:

Should any section, clause or provision of this ordinance be declared by a court 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.

Chapter 26.02
DOWNTOWN IMPROVEMENT DISTRICT

SECTIONS:

- 26.02.01 Establishment of the Downtown Business Improvement District
- 26.02.02 Downtown Business Improvement District Board
- 26.02.03 Duties of the Board
- 26.02.04 Boundaries of the Downtown Business Improvement District
- 26.02.05 Special Assessments
- 26.02.06 Exemptions

26.02.01 ESTABLISHMENT OF THE DOWNTOWN BUSINESS IMPROVEMENT DISTRICT:

The Downtown Business Improvement District is created for the purpose of a collective contribution funding for a portion or all of the future proposed public events, public activities, beautification efforts and promotion of the District as allowed by SDCL Ch. 9-55 which encourages economic development within the District.

All expenditures of the Downtown Business Improvement District funds shall be for events, public activities, beautification efforts and promotion of the District that occur within the Downtown Business Improvement District. The Downtown Business Improvement District funds shall be collected by the City, deposited into a separate fund and distributed to a qualified 501 (c) 3 which will complete the activities described in the annual adopted City budget to carry out the purposes described within this Title. Funds collected from this assessment may not be used to host, promote or staff the annual Motorcycle Rally, nor may they be used for the benefit of an individual business.

26.02.02 DOWNTOWN BUSINESS IMPROVEMENT DISTRICT BOARD:

There is hereby established a Downtown Business Improvement District Board.

- A. Composition. The board shall consist of five owners of property within the Business Improvement District. All appointments shall be made by the City Manager. For purposes of this section, a property owner includes the following:
 - 1. An officer or director of a corporate property owner;
 - 2. A manager or member of a limited liability company that owns property;
 - 3. A partner of a partnership that owns property;
 - 4. A representative appointed by a property owner.
- B. Terms. Upon initial appointment, 3 of the members shall be appointed for 2-year terms, and 2 members shall be appointed for 1-year terms. Thereafter, all members of the board shall be appointed to serve a 2-year term. A member of the board may serve more than 1 term.
- C. Vacancies. The City Manager shall appoint a qualified individual to fill any vacancy for the remainder of the term vacated.
- D. Officers. The Board shall annually select from its members a chair and secretary.
- E. Compensation. All members of the board shall serve as such without compensation, except for actual expenses, which shall be subject to approval of the Common Council.

26.02.03 DUTIES OF THE BOARD:

The Downtown Business Improvement Board shall review the activities funded through the assessment and make annual recommendations to the City Council for use of the funds. The Board's recommendation shall be made no later than May 15 of each year. The Board shall meet at least twice per year after January to discuss previous years' expenditures and to recommend a budget for the following

year. Should a property owner wish to call for a special meeting, the property owner must submit a written request to the City Finance Officer at least 7 days in advance of the proposed date of the special meeting. Thereafter the City Finance Officer shall give notice to other Board members of the date, time and location of the meeting.

26.02.04 BOUNDARIES OF THE DOWNTOWN BUSINESS IMPROVEMENT DISTRICT:

The Downtown Business Improvement District shall include all business property within the area located north of Sherman Street and south of Dudley Street to and including properties fronting Lazelle Street, all business properties located west of Middle Street and east of Fourth Street, and all business properties fronting on Middle Street or on Fourth Street..

26.02.05 SPECIAL ASSESSMENTS:

- A. The real property in the district shall be subject to an annual special assessment based upon the special benefit to the property within the district as authorized by SDCL § 9-55-2.
- B. The special assessment shall be fair and equitable as required by SDCL § 9-55-7. The rate of each special assessment shall be determined pursuant to SDCL § 9-55-13 based upon the following formula:
 - 1. For property located within the Business Improvement District, the property shall be assessed a total of \$2 per linear foot of the property's street frontage (it shall not include frontage along alleyways).
 - 2. The maximum assessment on each property within the Business Improvement District shall be capped at \$600.
 - 3. The assessments shall be subject to adjustment by the City Common Council by resolution as provided in SDCL Ch. 9-55.

26.02.06 EXEMPTIONS:

The following real property is exempt from taxation or assessment under this chapter:

- A. All real property which is exempt from taxation under SDCL Ch. 10-4, except those properties identified under 26.03.02 (G).
- B. Owner occupied residential property.
- C. Property used solely for residential uses.
- D. Property used as a place of worship.
- E. Property used by a school district and Meade County
- F. Hospital property
- G. City property located within the District boundaries shall not be exempt. The City shall pay an assessment consistent with the linear calculation of each property located within the Businesses Improvement District.

Chapter 26.03
HOTEL AND MOTEL IMPROVEMENT DISTRICT

SECTIONS:

- 26.03.01 Establishment of the Hotel and Motel Business Improvement District
- 26.03.02 Boundaries of the Hotel and Motel Business Improvement District
- 26.03.03 Hotel and Motel Business Improvement District Board
- 26.03.04 Duties of the Board
- 26.03.05 Vote Allocation
- 26.03.06 Hotel and Motel Business Improvement District Occupancy Tax
- 26.03.07 Occupancy Tax Assessment
- 26.03.08 Licenses and Account Charge
- 26.03.09 Enforcement and Remedies
- 26.03.10 Reporting Occupancy Tax

26.03.01 ESTABLISHMENT OF THE HOTEL AND MOTEL BUSINESS IMPROVEMENT DISTRICT:

The Hotel and Motel Business Improvement District is established for the purpose of providing funding for a portion or all of the cost of future proposed public events, public activities, promotion of the District or other permitted uses as allowed by SDCL Chapter 9-55. Any expenditures of the Hotel and Motel Business Improvement District funds shall be for events, public activities, beautification efforts, promotion of the District, economic development and other uses approved by SDCL 9-55-3. Funds collected from this assessment may not be used to directly promote or staff the annual Motorcycle Rally, nor may they be used solely for the benefit of an individual business within the City.

26.03.02 BOUNDARIES OF THE HOTEL AND MOTEL BUSINESS IMPROVEMENT DISTRICT:

The Boundaries of the District shall consist of the following Zoning Districts, as shown on the official Zoning map of the City on file in the City Finance Office:

- A. GC-1, General Commercial District
- B. GC-2, Retail Commercial District
- C. GC-3, Single Family Residential / Office Commercial District
- D. HS-1, Highway Service

Any bed and breakfast or similar use as described in subsection 26.03.06 below shall be exempt from any Occupancy Tax established by this Ordinance. Included within the District at the date of enactment are:

- | | |
|------------------------|-----------------------------|
| 1) Best Western | 2431 South Junction Avenue |
| 2) Holiday Inn Express | 2721 Lazelle Street |
| 3) Days Inn | 2630 Lazelle Street |
| 4) Super 8 | 2600 Whitewood Service Road |
| 5) Junction Inn | 1802 Junction Avenue |
| 6) South Pine Motel | 1051 Park Street |

Any hotel, motel or lodging establishment which are built, constructed or established within the defined boundaries of the District after the date of passage of this Ordinance shall automatically become subject to the Occupancy tax established herein.

26.03.03 HOTEL AND MOTEL BUSINESS IMPROVEMENT DISTRICT BOARD:

There is hereby created a Hotel and Motel Business Improvement District Board. The Board shall consist of all qualified owners or managers of Hotel or Motel property within the boundaries of the Hotel and Motel Business Improvement District. The bylaws of the Board shall be provided by the City and maintained on file at the City Finance Office. To qualify as a Hotel or Motel property, the subject property must meet the definition of SDCL10-45D-1(1) as a lodging establishment, shall be located within the Boundaries of the District, or if outside the District a property operated in compliance with all City Ordinances as a legal non-conforming pre-existing use.

A. For the purposes of chapter 26.03, the term “qualified owner” shall be defined as the following:

1. An officer or director of a corporate property owner, as designated by a written corporate resolution;
2. A manager or member of a limited liability company that owns property, as allowed by the bylaws or management agreement of that company;
3. A partner of a partnership that owns property, as designated by written action of the partnership;
4. A representative appointed by a written grant of Agency by a qualified property owner.

B. Officers. The Board shall annually select from its members a chair and secretary.

C. Compensation. All members of the board shall serve as such without compensation, except for actual expenses. Any reimbursement may only be as allowed by Board Bylaws and requires approval of the City Council.

26.03.04 DUTIES OF THE BOARD:

The Hotel and Motel Business Improvement Board shall meet at least once per calendar quarter, and more frequently as necessary to fulfill its duties. The Board shall review any past activities, events or improvements which have received municipal funding and make an annual recommendation to the City Council for use of funds through an appropriation in the upcoming annual City budget. The Board shall meet at least twice between January 1 and May 31 of each calendar year to develop and prepare, in a format acceptable to the City Finance Office, its budget recommendation for the following year. The Board’s recommendation shall be made no later than July 15 of each year. Any recommendations received after that time will be considered for the next following annual City budget.

Should a qualified Hotel or Motel property owner within the District boundaries wish to call for a special meeting of the Board, the property owner must submit a written request to the City Finance Officer at least 7 days in advance of the proposed date of the special meeting. Thereafter the City Finance Office shall give notice to other Board members of the date, time and locations of the meeting.

26.03.05 VOTE ALLOCATION:

The proportionate vote of a Board member shall be established at one vote for the first twenty-five lease rooms available to the public, and an additional vote for each portion of twenty five additional available lease rooms at the qualified property. The vote allocation of the Board members shall be as follows:

Best Western	55 (3 votes)
Days Inn	53 (3 votes)

Holiday Inn Express	84 (4 votes)
Super 8	58 (3 votes)
Starlite Motel	24 (1 vote)
<u>South Pine Motel</u>	<u>9 (1 vote)</u>
 TOTAL:	 283 (15 votes)

The proportionate vote of each Board member shall be revised as properties change the number of their rooms or new properties enter the District.

26.03.06 HOTEL AND MOTEL BUSINESS IMPROVEMENT DISTRICT OCCUPANCY TAX:

An occupational tax in the amount of Two Dollars (\$2.00) per night shall be imposed upon transient guests based upon rooms rented or providing any revenue or consideration to any of the above hotels, motels or lodging establishments. This occupation tax shall be fair, equitable and uniform as to class. This tax rate shall be subject to establishment and adjustment by the Sturgis City Council during its annual approval and passage of the Budget Ordinance, upon consideration of the recommendation by the Hotel and Motel Business Improvement District Board. The tax shall not apply to bed and breakfast facilities serving 9 or fewer guest, state licensed campgrounds, other legal campgrounds within the City, or private residences leased for guest sleeping accommodations for 15 or fewer days annually.

26.03.07 OCCUPANCY TAX ASSESSMENT:

The Sturgis City Finance Officer is authorized and directed to determine and compute the tax in accordance with this ordinance. The occupancy tax assessed pursuant to the terms of this ordinance shall be remitted by the 20th day of each month to the Sturgis City Finance Office for the Occupancy Tax assessed and owing from the previous calendar month. 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 Office or its designee, pursuant to this ordinance. The City Finance Office or its designee shall be authorized and entitled to audit the books, ledgers, daily sales and/or occupancy reports, or franchise reports of any hotel, motel or lodging establishment subject to the terms of this ordinance so as to ensure that the occupancy tax to be collected by said hotels, motels and lodging establishments are properly remitted to the City of Sturgis. In addition to all penalties described herein for a violation of this ordinance, the City shall be entitled to seek injunctive relief and/or any legal remedy available to it against any hotel, motel or lodging establishment which does not remit the properly remit all tax monies when due, pursuant to this ordinance and the laws of the State of South Dakota.

26.03.08 LICENSES AND ACCOUNT CHARGE:

All remittances of the occupancy tax collected pursuant to this ordinance shall be paid to the City Finance Office on or before the 20th day of the month following the month for which the occupancy tax was to be collected. 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 one percent (1%) of the total amount due with a minimum fee of \$10.00. Failure to pay such tax shall also constitute a violation of this ordinance for each day for which it is unpaid, which may be punishable by a fine not to exceed Five Hundred Dollars (\$500.00). 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 shall pay all attorney's fees and costs incurred by the City of Sturgis in seeking enforcement under the terms of this ordinance. Any unpaid balance under this ordinance shall constitute a lien upon the property upon which the hotel, motel or lodging establishment is operated, 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 Sturgis

Finance Office shall certify all unpaid amounts or balances to the county treasurer for collection in the same manner as general property taxes are collected. In addition, the City of Sturgis may deny the issuance of any permit or license applicable to that property, or any renewals thereof, to any such establishment or operator that fails to comply with the provisions of this ordinance, including but not limited to building permits, malt beverage licenses, and/or liquor licenses.

26.03.09 ENFORCEMENT AND REMEDIES:

Nothing within this chapter of this ordinance shall be construed as limiting of any other rights which the City of Sturgis has, or may pursue in seeking collection of monies received but not paid under the terms of this ordinance. All potential penalties as set forth in subsection 26.01.02 above shall be applicable to any violation of Title 26 herein. In the event that this tax becomes subject to supervision by the State of South Dakota through the State's Department of Revenue, any right of enforcement on behalf of the City shall be deemed cumulative to any powers which inure to the benefit of the State.

26.02.10 REPORTING OCCUPANCY TAX:

Any business governed by this ordinance shall include in its monthly report, in a format approved by the City Finance Office, a signed and sworn statement to verify the accuracy and truthfulness of the calculation and remittance of all tax imposed by this ordinance on or before the 20th day of each month. Said statement shall include the following:

I declare, under penalty of perjury, that I have knowledge of the business income, revenue and accounting of this property, subject to the Sturgis Hotel Motel Occupancy Tax, that the above accounting of rooms leased or rented is accurate and complete and the tax payment made herein is accurate and complete according to the business records of the Hotel or Motel providing this Tax Report..

Signed _____

Date _____

Title _____

(Title 26 replaced entirely with Ordinance 2017-03, effective 05-31-2017)