

ORDINANCE NO. 5126

**AN ORDINANCE ESTABLISHING BUSINESS IMPROVEMENT DISTRICT NO. 1 BY
ADDING CHAPTER 3.24 TO THE RAPID CITY MUNICIPAL CODE.**

WHEREAS, the owners of a majority of the assessable front footage in the proposed business district area petitioned the Common Council of Rapid City to hold a hearing to create a business improvement district pursuant to SDCL § 9-55-9; and

WHEREAS, the Common Council of Rapid City approved a resolution of intent to establish a business improvement district at its December 5th, 2005, meeting; and

WHEREAS, the Common Council of Rapid City held a public hearing on January 16th, 2006, to consider the establishment of the proposed business improvement district; and

WHEREAS, the creation of the proposed business improvement district will generate money to develop activities and promote events in the district area and will further fund any other services necessary and proper to carry out the purposes of SDCL Chapter 9-55; and

WHEREAS, the Common Council of Rapid City deems it to be in the City's best interests to promote the City of Rapid City and its hotels and motels by approving the establishment of Business Improvement District No. 1.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Chapter 3.24 be added to the Rapid City Municipal Code to read as follows:

Chapter 3.24

BUSINESS IMPROVEMENT DISTRICT NO. 1

Sections:

- 3.24.010 Establishment of district.**
- 3.24.020 Boundaries of district.**
- 3.24.030 Purpose of district.**
- 3.24.040 Occupational tax imposed.**
- 3.24.050 Duty to account for complimentary rooms.**
- 3.24.060 Computation and collection of occupational tax.**
- 3.24.070 Statement required along with occupational tax payment.**
- 3.24.080 Penalties for failure to pay occupational tax.**
- 3.24.090 Payment of fees.**
- 3.24.100 Costs incurred by City in administering occupational tax.**
- 3.24.110 Payment of occupational tax proceeds to Convention and Visitors Bureau.**
- 3.24.111 Severability.**
- 3.24.112 ~~Expiration of occupational tax if the City cuts funding to the Convention and Visitors Bureau.~~**

3.24.010 Establishment of district.

Pursuant to the provisions of SDCL Chapter 9-55, Business Improvement District No. 1 of the City of Rapid City is hereby created. A Resolution of Intent to create this district was approved by the Common Council of Rapid City on the 5th day of December, 2005. The public hearing on creation of the district was held in the City Council Chambers, located at 300 Sixth Street, Rapid City, South Dakota, at 7:00 p.m. on the 16th day of January, 2006.

3.24.020 Boundaries of district.

Business Improvement District No.1 shall have the following boundaries, excluding any bed and breakfast establishments, and motel/hotel properties with less than 50 rooms:

<u>PROPERTY</u>	<u>RMS</u>	<u>ADDRESS</u>	<u>CITY</u>	<u>ST</u>	<u>ZIP</u>
AmericInn	64	1632 Rapp Street	Rapid City	SD	57701
Best Western Ramkota	267	2111 N. LaCrosse Street	Rapid City	SD	57701
Best Western Town & Country Inn	99	2505 Mt. Rushmore Road	Rapid City	SD	57701
College Inn Motel	68	121 Kansas City Street	Rapid City	SD	57701
Comfort Inn & Suites	82	915 Fairmont Blvd.	Rapid City	SD	57701
Comfort Inn I-90	97	1550 N. LaCrosse Street	Rapid City	SD	57701
Country Inn & Suites	103	2321 N. LaCrosse Street	Rapid City	SD	57701
Days Inn I-90	77	1570 Rapp Street	Rapid City	SD	57701
Days Inn West	54	725 Jackson Blvd.	Rapid City	SD	57702
Econo Lodge I-90	120	625 E. Disk Drive	Rapid City	SD	57701
Fairfield Inn & Suites	136	1314 N. Elk Vale Road	Rapid City	SD	57703

Foothills Inn	63	1625 N. LaCrosse Street	Rapid City	SD	57701
Hampton Inn	82	1720 Rapp Street	Rapid City	SD	57701
Hotel Alex Johnson	143	523 Sixth Street	Rapid City	SD	57701
Holiday Inn Express I-90	105	645 E. Disk Drive	Rapid City	SD	57701
Holiday Inn Express	63	750 Cathedral Drive	Rapid City	SD	57701
Holiday Inn Rushmore Plaza	205	505 N. Fifth Street	Rapid City	SD	57701
Howard Johnson Express	99	950 North Street	Rapid City	SD	57701
Imperial Hotel	108	125 Main Street	Rapid City	SD	57701
Knights Inn	67	2401 Mt. Rushmore Road	Rapid City	SD	57701
Microtel Inn & Suites	73	1740 Rapp Street	Rapid City	SD	57701
Motel 6	150	620 E. Latrobe Street	Rapid City	SD	57701
Quality Inn	210	1902 LaCrosse Street	Rapid City	SD	57701
Radisson Hotel	176	445 Mt. Rushmore Road	Rapid City	SD	57701
Ramada Inn	139	1721 LaCrosse Street	Rapid City	SD	57701
Rodeway Inn	107	2208 Mt. Rushmore Road	Rapid City	SD	57701
Red Roof Inn	97	620 Howard Street	Rapid City	SD	57701
Super 8 Motel	98	2124 N. LaCrosse Street	Rapid City	SD	57701

Super 8 Motel Rushmore Road	118	2520 Tower Road	Rapid City	SD	57701
Time Inn Motel	59	615 E. North Street	Rapid City	SD	57701

3.24.030 Purpose of district.

Business Improvement District No. 1 is created for the purpose of funding a portion or all of the future proposed public activities, facilities and improvements along with the costs of acquisition, construction, maintenance, operation and repair of such improvements, facilities or activities:

The marketing and promotion of the City of Rapid City and its hotels and motels located within the district through the Rapid City Area Convention and Visitors Bureau.

3.24.040 Occupational tax imposed.

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. 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 whereby no fee or rent is charged for such room. This tax rate shall be subject to establishment and adjustment by the Rapid City Common Council by resolution in accordance with SDCL § 9-55-16.

3.24.050 Duty to account for complimentary rooms.

Each hotel, motel or lodging establishment shall account for complimentary rooms which are also subject to audit by the City Finance Officer with such records to show the basis for offering such room on a complimentary basis.

3.24.060 Computation and collection of occupational tax.

The Rapid City Finance Officer is authorized and directed 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 Rapid City Finance Officer, with the remittance to be for the previous calendar month's tax collections. The City Finance Officer or any person or firm contracted by the City Finance Officer shall be entitled to audit the books, ledgers, or franchise reports of any hotel, motel or lodging establishment subject to the terms of this ordinance, including the right to inspect daily reports of such hotels and motels so as to ensure that the occupancy tax assessed by this ordinance is being properly remitted to the City of Rapid City. The City Finance Officer shall be entitled to seek injunctive relief against any hotel, motel or 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 or motel owner to allow entry upon their property and access to their records, computers, or books so as to verify that the hotel, motel or lodging establishment is remitting all monies it collects pursuant to this

ordinance and the laws of the State of South Dakota. 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 Officer or its designee, pursuant to this ordinance.

3.24.070 Statement required along with occupational tax payment.

Any business governed by this ordinance shall sign a sworn statement to be submitted along with the remittance of 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 _____ Dated _____
Title _____

3.24.080 Penalties for failure to pay occupational tax.

All remittances of occupancy tax collected pursuant to this ordinance shall be due and received in the office of the City of Rapid City 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 Two Hundred Dollars (\$200). Each day that the payment is overdue shall constitute a separate offense. 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 Rapid City 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 Rapid City 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. Nothing within the body of this ordinance shall be construed as limiting any other rights which the City of Rapid City 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 City of Rapid City has herein shall be deemed cumulative to any powers which inure to the benefit of the State.

3.24.090 Payment of fees.

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 Rapid City in seeking payment under the terms of this ordinance.

3.24.100 Costs incurred by City in administering occupational tax.

All costs incurred by the City of Rapid City or the City Finance Officer pursuant to this ordinance shall be paid from occupancy taxes collected under this ordinance.

3.24.110 Payment of occupational tax proceeds to Convention and Visitors Bureau.

Once the occupational tax has been collected, the City Finance Office shall subtract its administrative costs and forward the remaining balance to the Rapid City Convention and Visitors Bureau. The Convention and Visitors Bureau will then use the proceeds to market and promote the City of Rapid City and the hotels within the district.

3.24.111 Severability.

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.

3.24.112 — ~~Expiration of occupational tax if the City cuts funding to the Convention and Visitors Bureau.~~

~~The continued existence and enforceability of this Business Improvement District ordinance and the attendant occupation tax as described herein is contingent upon the City of Rapid City continuing to appropriate funds to the Conventions and Visitors Bureau (CVB) in the amount of at least twenty five percent (25%) of the tax imposed in Rapid City Municipal Code § 3.16.040. In the event City of Rapid City appropriates less than twenty five percent (25%) of the tax imposed in Rapid City Municipal Code § 3.16.040 to the CVB, or otherwise resolves to discontinue funding to the CVB altogether, then the provisions of this ordinance shall become automatically void and no longer enforceable.~~

CITY OF RAPID CITY

Jim Shaw, Mayor

ATTEST:

City Finance Officer

(SEAL)

First Reading:
Second Reading:
Published:
Effective: