

1st Reading: _____
 2nd Reading: _____
 Date Adopted: _____
 Date Published: _____
 Effective Date: _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE REVISED ORDINANCES OF THE CITY BY IMPLEMENTING A LODGING ESTABLISHMENT TAX WITHIN THE MAIN STREET BUSINESS IMPROVEMENT DISTRICT.

BE IT ORDAINED BY THE CITY OF SIOUX FALLS, SD:

Section 1. That Section 39-143 of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:

Section 39-143. Resolutions of intent.

A resolution of intent, Resolution No. 275-89, for the creation of the business improvement district was adopted on October 23, 1989.

[A resolution of intent, Resolution No. 13-12, allowing for the use of a lodging establishment occupation tax within the district was adopted on March 12, 2012.](#)

Section 2. That Section 39-149 of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:

Section 39-149. ~~Reserved.~~ Lodging establishment occupation tax imposed.

[An occupation tax up to a maximum amount allowable per SDCL 9-55, per night, will be imposed upon transient guests based upon rooms rented by the hotels, motel, or lodging establishments within the boundaries of the district as enumerated in this section. This occupation tax must be fair, equitable, and uniform. 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 is imposed on transient guests as follows in conformance with Resolution\(s\) No. 13-12 and Section 39-145:](#)

<u>Address of Lodging Establishment</u>	<u>Per Room, Per Night Occupation Tax</u>	<u>Approximate Rooms in Hotel</u>	<u>Uses of Funds</u>
<u>201 E. Eighth St. (Hilton Garden Inn)</u>	<u>\$2.00</u>	<u>136</u>	<u>Those uses identified by Res. 13-12 and this chapter.</u>

[Any additions or removals of lodging establishments for which the tax is imposed, or changes in rates, shall be made in accordance with SDCL 9-55-16 and codified in this section.](#)

Section 3. That the Revised Ordinances of Sioux Falls, SD, are hereby amended by adding a section to be numbered 39-149.1 to read:

Section 39-149.1. Duty to account for complimentary rooms.

Each hotel, motel, or lodging establishment must account for complimentary rooms that are also subject to audit by the city finance director with such records to show the basis for offering such room on a complimentary basis.

Section 4. That the Revised Ordinances of Sioux Falls, SD, are hereby amended by adding a section to be numbered 39-149.2 to read:

Section 39-149.2. Computation and collection of occupational tax.

The Sioux Falls finance director 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 must be remitted by the twentieth day of each month to the Sioux Falls finance director, with the remittance to be for the previous calendar month's tax collections. The city finance director or any person or firm contracted by the city finance office will 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 Sioux Falls. The city finance director will be entitled to seek injunctive relief against any hotel, motel, or lodging establishment that 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 must keep accurate records of amounts collected from transient guests for review by the city finance director or its designee, pursuant to this ordinance.

Section 5. That the Revised Ordinances of Sioux Falls, SD, are hereby amended by adding a section to be numbered 39-149.3 to read:

Section 39-149.3. Statement required along with occupational tax payment.

Any lodging establishment governed by this ordinance must sign a sworn statement to be submitted along with the remittance of any tax imposed by this ordinance on or before the twentieth 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 _____

Section 6. That the Revised Ordinances of Sioux Falls, SD, are hereby amended by adding a section to be numbered 39-149.4 to read:

Section 39-149.4. Penalties for failure to pay occupational tax.

All remittances of occupancy tax collected pursuant to this ordinance will be due and received in the office of the city of Sioux Falls finance office on or before the twentieth 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 twentieth 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 will 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 will constitute a separate offense. Any unpaid balance under this ordinance will constitute a lien upon the property owned by the lodging establishment or user of space being taxed and will become a lien against and will run with the property and may be enforced and collected in the same manner as other unpaid real property taxes and assessments. The Sioux Falls finance director will 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 Sioux Falls will have the ability to deny the issuance of any permits or license or any renewals thereof to any lodging establishment 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 may be construed as limiting any other rights which the city of Sioux Falls 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 the city of Sioux Falls has herein will be deemed cumulative to any powers which inure to the benefit of the state.

Section 7. That the Revised Ordinances of Sioux Falls, SD, are hereby amended by adding a section to be numbered 39-149.5 to read:

Section 39-149.5. 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 will be responsible to pay all attorney's fees and costs incurred by the city of Sioux Falls in seeking payment under the terms of this ordinance.

Section 8. That the Revised Ordinances of Sioux Falls, SD, are hereby amended by adding a section to be numbered 39-149.6 to read:

Section 39-149.6. Costs incurred by city in administering occupational tax.

All costs incurred by the city of Sioux Falls or the city finance office pursuant to this ordinance will be paid from occupancy taxes collected under this ordinance. Such costs may not exceed two and one-half percent (2.5%) of the amount of tax collected annually.

Section 9. That the Revised Ordinances of Sioux Falls, SD, are hereby amended by adding a section to be numbered 39-149.7 to read:

Section 39-149.7. Payment of occupational tax proceeds.

Once the occupational tax has been collected, the city finance office will subtract its administrative costs and make payment of funds to any entity for which the city has contracted or entered into agreement for the implementation of the activities authorized by this chapter and Resolution No. 13-12.

Section 10. That the Revised Ordinances of Sioux Falls, SD, are hereby amended by adding a section to be numbered 39-149.8 to read:

Section 39-149.8. Severability.

Should any section, clause, or provision of this ordinance be declared by the courts to be invalid, the same will not affect the validity of the ordinance as a whole or any part thereof, other than the part declared to be invalid.

Date adopted: _____.

Mayor

ATTEST:

City Clerk