

Ordinance No. 1858

**AN ORDINANCE ESTABLISHING BUSINESS IMPROVEMENT DISTRICT #3
OF THE CITY OF PIERRE, SOUTH DAKOTA**

WHEREAS, the City of Pierre, pursuant to SDCL §9-55-14, may levy a general business occupation tax upon all businesses and users of space within Business Improvement District Number 3 (the "District"), and

WHEREAS, prior to the levying of an occupational tax, the City is required to hold a hearing on such tax; and

WHEREAS, a notice of hearing has been given to all landowners within the District by publication once a week for two weeks of the City's intent to levy an occupational tax.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF PIERRE, SOUTH DAKOTA AS FOLLOWS:

ARTICLE I. DEFINITIONS

SECTION 1. Definition of Terms. In addition to the words and terms elsewhere defined in this Ordinance, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings, unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

"Act" means SDCL Chapter 9-55.

"District" means City of Pierre, Business Improvement District Number 3.

"Occupation Tax" means 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 Ordinance.

"Ordinance" means this Ordinance.

Section 1.2. References to Ordinance.

The words "hereof", "herein", "hereunder", and other words of similar import refer to this Ordinance as a whole.

Section 1.3. References to Articles, Sections, Etc.

References to Articles, Sections, and other subdivisions of this Ordinance are to the designated Articles, Sections, and other subdivisions of this Ordinance as originally adopted.

Section 1.4. Headings.

The headings of this Ordinance are for convenience only and shall not define or limit the provisions hereof.

ARTICLE II. OCCUPATION TAX.

SECTION 1. Levy of Occupational Tax.

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 Ordinance. The Occupational Tax shall be set at a rate of \$2.00 per night per room or per night occupation. The Occupational Tax shall be used for any public improvements, facilities and activities.

SECTION 2. Computation and Collection of occupational tax.

2.1 Complimentary Rooms. This occupation tax is found to 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. Each hotel, motel or lodging establishment must account for complimentary rooms that are also subject to audit by the city finance officer with records to show the basis for offering the room on a complimentary basis.

2.2 Computation of Tax. The 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 must be remitted by the twentieth day of each month to the 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 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 hotels and motels so as to ensure that the occupancy tax assessed by this Ordinance is being properly remitted to the city. The city finance officer 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. 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 officer or its designee, pursuant to this Ordinance.

2.3. Sworn Statements by Remitters. Each hotel, motel or lodging establishment shall file a sworn statement accompanying payment of tax in substantially the following form:

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.

2.4. 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 in seeking payment under the terms of this Ordinance.

2.5. Costs incurred by City in Administering Occupational Tax. All costs incurred by the city or the city finance office pursuant to this Ordinance will be paid from occupancy taxes collected under this Ordinance. The costs may not exceed 2.5% of the amount of tax collected annually.

2.6. Occupational Tax administration. Once the occupational tax has been collected, the city finance office will subtract its administrative costs and fund public improvements, facilities and activities, and make payment of funds to any entity for which the city has contracted or entered into agreement for the implementation of the public improvements, facilities and activities authorized by this Ordinance.

2.7. 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.

Section 3. Effective Date

This ordinance is effective December 8, 2023.

All ordinances in conflict herewith are hereby repealed.

First Reading:	<u>November 7, 2023</u>
Second Reading and Adoption:	<u>November 14, 2023</u>
Published:	<u>November 18, 2023</u>

CITY OF PIERRE, SD

Steve Harding, Mayor

ATTEST:

Twila Hoffrogge, Finance Officer