

## Ordinance No. 02-12

### An Ordinance Establishing Business Improvement District Number I of the City of Brookings, South Dakota.

Be It Ordained and Enacted by the Council of the City of Brookings, State of South Dakota, as follows:

I.

#### Section 1. Establishment of the District.

There is hereby created, pursuant to SDCL Chapter 9-55, "Brookings Business Improvement District Number I" (hereinafter also referred to as the "District") of the City. A Resolution of Intent to create this district was approved by the City Council on January 24, 2012. A public hearing on the creation of Business Improvement District Number I was held in the City Council Chambers located at 311 – 3<sup>rd</sup> Avenue, Brookings, S.D. at 6:00 p.m. on Tuesday, February 28, 2012.

#### Section 2. Boundaries of the Business Improvement District.

Business Improvement District Number I is a noncontiguous district, located within the City, and excludes any hotel, motel or lodging establishments with less than 25 rooms, unless the hotel or motel elects to be included within the District.

Business Improvement District Number I includes the following properties:

HOTEL	ADDRESS	CURRENT NUMBER OF ROOMS
Comfort Inn	514 Sunrise Ridge Road	52
Days Inn	2500 E. 6 <sup>th</sup> Street	125
Fairfield Inn & Suites by Marriot	3000 LeFevre Drive	76
Hampton Inn & Suites	3017 LeFevre Drive	87
Holiday Inn Express	3020 LeFevre Drive	62
Sonshine Inn	108 – 6 <sup>th</sup> Street	35
Staurolite Inn & Suites	2515 E. 6 <sup>th</sup> Street	102
Super 8	3034 LeFevre Drive	66

#### Section 3. Voluntary Participation.

Business Improvement District Number I will permit hotels and motels with less than 25 rooms to be included in the District if they elect to be included.

#### Section 4. New Properties within the District.

Business Improvement District Number I may be expanded to also include all hotels or motels with 25 rooms or more which are constructed after the creation of the District.

#### Section 5. Purpose of the District.

Business Improvement District Number I is created for the purpose of funding a portion of the costs of promotion and marketing of visitor facilities, events, attractions and activities which

benefit the City and the hotels and motels located within the District. The funding may include payment of the costs of acquisition, construction, maintenance, operation and funding of public improvements, facilities for the enhancement, expansion, marketing, and promotion of visitor facilities, events, attractions and activities.

Section 6. Occupational Tax Imposed.

An occupational tax in the amount of Two Dollars (\$2.00) per night is hereby imposed upon transient guests, based upon rooms rented by any of the hotels, motels or lodging establishments within the District. 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. Additionally, no occupational tax may be imposed on any transient guest who stays 28 or more consecutive nights. This tax rate may be adjusted by the City Council in accordance with SDCL § 9-55-16.

Section 7. Duty to Account for Complimentary and Lease Rooms.

Each hotel, motel or lodging establishment shall account for complimentary or leased rooms which are also subject to audit by the City, with records showing the reason rooms were provided on a complimentary basis or for a period of 28 days or more.

Section 8. Computation and Collection of Occupation Tax.

The City Finance Manager is authorized to determine and compute the tax in accordance with this ordinance. The occupational tax assessed pursuant to this ordinance shall be remitted by the 20<sup>th</sup> day of each month to the City, based on the previous calendar-month tax collections. The City Finance Manager or their designee shall be authorized 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 any occupancy tax is properly remitted to the City. The City may seek injunctive relief against any hotel, motel or lodging establishment which does not remit the proper amount of tax monies when due. 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 Manager or their designee.

Section 9. Certified Report Required Along with Occupation Tax Payment.

Any business governed by this ordinance shall certify with the remittance of tax imposed by this ordinance that the accounting of rooms rented is accurate and the tax payment made is accurate according to the business records.

The foregoing report shall include the signature of a person authorized to make such statement on behalf of the business, with the person certifying the report to include their capacity to make the certification on behalf of the business.

Section 10. 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 Finance Manager on or before the 20<sup>th</sup> day of the month following the month for which the occupancy tax was collected. All amounts that are not received on or

before the 20<sup>th</sup> day of the month will be charged a late fee in the amount of ten percent of the total amount due. Failure to timely remit the occupancy tax shall constitute a violation of this ordinance.

The City Finance Manager 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 shall have the ability to deny the issuance of 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 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 through the State's Department of Revenue, any rights which the City has herein shall be deemed cumulative to any powers which inure to the benefit of the State.

#### Section 11. Payment of Fees.

In the event legal action is required to collect any delinquent assessments, if there is tax that has not been paid in accordance with this ordinance, the hotel, motel or lodging 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.

#### Section 12. Costs Incurred by City in Administering Occupational Tax.

All costs of administration of the District which are incurred by the City shall be paid from occupancy taxes collected under this ordinance. The administration costs shall not exceed two (2) percent of the tax collected, with the balance of tax collected paid to the District, to be administered by the District's Board of Directors.

#### Section 13. Use of Occupational Tax Proceeds by Brookings Business Improvement District Number 1.

Brookings Business Improvement District Number 1 Board of Directors will use the proceeds only for improvements benefiting the City and its hotels and motels located within the District through implementation of a budget recommended by the District Board of Directors and approved by the City Council.

#### Section 14. Reporting.

Business Improvement District Number 1 will provide an annual report to the City Council. Quarterly reports will be provided upon written request from the City Council.

#### Section 15. Audit.

Brookings Business Improvement District Number 1 shall submit to a biennial audit by a Certified Public Accountant. A copy of the audit report shall be provided to the City Finance Office upon completion.

#### Section 16. Severability.

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

Section 17. Effective Date.

This ordinance is effective on May 1, 2012.

II.

All ordinances in conflict herewith are hereby repealed.

First Reading:	February 14, 2012
Second Reading and Adoption:	February 28, 2012
Published:	March 2, 2012

CITY OF BROOKINGS, SD

ATTEST:

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Tim Reed, Mayor

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Shari Thornes, City Clerk