

Planning and Zoning Commission Regular Meeting Agenda

Wednesday, December 03, 2025 at 4:00 PM

City Hall, 102 Sherman Street, Deadwood, SD 57732

- 1. Call to Order
- 2. Roll Call
- 3. **Approval of Minutes**
 - <u>a.</u> Approve the minutes of the November 19, 2025, Planning and Zoning Commission Meeting
- 4. Sign Review Commission
- 5. **Planning and Zoning Commission**
 - a. Annual Review Conditional Use Permit for Bed and Breakfast Establishment 54 Taylor Avenue (Debra Kahler) legally described as Lot A, Lot D and Lot E of the subdivision of Lots 67 and 68, the southerly part of Lot 66 Block 35, and parts of Lots 28 through 36, Block 35, of the City of Deadwood, South Dakota, according to Plat Book 3 page 79-90, Lawrence County, South Dakota.

Action Required:

- 1. Public Hearing
- 2. Approval/Denial of continued use by Planning and Zoning Commission
- b. Annual Review Conditional Use Permit for Vacation Home Establishment 606.5 Main Street (The Nugget) legally described as Lot 24, in Block 15 of the Original Townsite of the City of Deadwood, Lawrence County, south Dakota, according to P.L. Rogers Map except a portion of land along the southerly side of Lot 24, Block 15 being 8 inches in width fronting on Main and back of even width of 100' as set forth in deed and recorded in Book 162 Page 243.

Action Required:

- 1. Public Hearing
- 2. Approval/Denial of continued use by Planning and Zoning Commission
- C. Application for Plat Booster Station Lot Stage Run Addition (PSF LLC) legally described as Booster Station Lot, Block 4 of Palisades Tract of Deadwood Stage Run Addition to the City of Deadwood all located in the SW 1/4 of Section 14, the SE 1/4 of Section 15, the NE 1/4 NE 1/4 of Section 22 and the N 1/2 NW 1/4 of Section 23, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota.

Action Required:

1. Approval/Denial by the Deadwood Planning and Zoning Commission

6. **Items from Citizens not on Agenda**

(Items considered but no action will be taken at this time.)

7. **Items from Staff**

a. Motion to acknowledge the Planning & Zoning Commission has reviewed the "Conducting the Public's Business in Public - A guide to South Dakota's Open Meetings Laws" brochure (Per SB 14. SDCL 1-25-13.)

8. Adjournment



Planning and Zoning Commission Regular Meeting Minutes

Wednesday, November 19, 2025 at 4:00 PM

City Hall, 102 Sherman Street, Deadwood, SD 57732

1. Call to Order

The Planning and Zoning Commission Meeting was called to order by Chairman Martinisko on Wednesday, November 19, 2025, at 4:00 p.m. in the Deadwood City Hall Meeting Room, located at 102 Sherman Street, Deadwood, SD 57732.

2. Roll Call

PRESENT

Commissioner (Chair) John Martinisko Commissioner (Vice-Chair) Josh Keehn Commissioner Ken Owens

Commissioner Jim Williams

City Commissioner Blake Joseph

ABSENT

Commissioner (Secretary) Dave Bruce

STAFF PRESENT

Kevin Kuchenbecker – Planning, Zoning and Historic Preservation Officer Trent Mohr – Building Official Leah Blue-Jones – Zoning Coordinator

3. Approval of Minutes

a. Approve the minutes of the November 5, 2025, Planning and Zoning Commission Meeting.

It was moved by Commissioner Owens and seconded by Commissioner Williams to approve the minutes of the November 5, 2025 Planning and Zoning Commission Meeting. Voting yea: Martinisko, Keehn, Owens, Williams.

4. Sign Review Commission

 Application for Sign Permit - 71 Charles Street - Tyler Bertsch. Applicant is requesting permission to install one (1) new wall sign. Proposed wall sign is compliant with ordinance.

Actions:

1. Approve/deny request for Sign Permit

Mr. Mohr discussed Application for Sign Permit - 71 Charles Street - Tyler Bertsch and reviewed the Staff Report.

It was moved by Commissioner Williams and seconded by Commissioner Owens to approve Application for Sign Permit - 71 Charles Street - Tyler Bertsch. Voting yea: Martinisko, Keehn, Owens, Williams.

5. Planning and Zoning Commission

a. Application for Conditional Use Permit - 388 Main Street - Vacation Home Establishment (Optima LLC) legally described as The North 1/2 of Lot 13 and all of Lot 14 in Block 3, Fountain City Addition to the City of Deadwood.

Actions:

- Public Hearing
- 2. Approve/Deny Application for Conditional Use Permit

Mr. Kuchenbecker introduced Application for Conditional Use Permit - 388 Main Street - Vacation Home Establishment (Optima LLC) and discussed the Staff Report.

It was moved by Commissioner Keehn and seconded by Commissioner Owens to approve Application for Conditional Use Permit - 388 Main Street - Vacation Home Establishment (Optima LLC) with nine (9) conditions. Voting yea: Martinsko, Keehn, Owens, Williams.

b. Application for Conditional Use Permit - 308 Main Street - Vacation Home Establishment (Optima LLC) legally described as Lot 1A, 2, 3 and the North 17 feet of Lot 4, Block A of the Noble's Addition to the City of Deadwood, NE 1/4 of Section 23, T5N, R3E, B.H.M., Lawrence County, South Dakota.

Actions:

- 1. Public Hearing
- 2. Approve/Deny Application for Conditional Use Permit

Mr. Kuchenbecker discussed Application for Conditional Use Permit - 308 Main Street - Vacation Home Establishment (Optima LLC) and reviewed the Staff Report.

Ms. Terry Ward, General Manager of First Gold Gaming Resort introduced herself to the Commission. Ms. Ward inquired about guest parking at the proposed location. Mr. Caleb Arceneaux, representative for Optima LLC, responded that all parking would be off street and located at the property.

Ms. Ward asked if historic preservation guidelines would need to be followed during the restoration of the property. Mr. Kuchenbecker responded in the affirmative.

It was moved by Commissioner Owens and seconded by Commissioner Williams to approve Application for Conditional Use Permit - 308 Main Street - Vacation Home Establishment (Optima LLC) with nine (9) conditions. Voting yea: Martinisko, Keehn, Owens, Williams.

c. Approve/Deny Finding of Facts and Conclusion - Petition for Deannexation, Boot Hills Estates legally described as Buena Vista Tract, being a portion of M.S. 343, M.S. 681, M.S. 685, M.S. 686, M.S. 788, M.S. 840, M.S. 920, M.S. 1208, and Lot R7 of M.S. 840, located in Sections 23 and 24, T5N, R3E, B.H.M., containing portions within and outside the City of Deadwood, Lawrence County, South Dakota.

Mr. Kuchenbecker reviewed Finding of Facts and Conclusion - Petition for Deannexation, Boot Hills Estates and reviewed the reasons for the denial of the Petition.

It was moved by Commissioner Owens and seconded by Commissioner Keehn to approve Finding of Facts and Conclusion - Petition for Deannexation, Boot Hills Estates. Voting yea: Martinisko, Keehn, Owens, Williams.

6. Items from Citizens not on Agenda

(Items considered but no action will be taken at this time.)

7. Items from Staff

Mr. Kuchenbecker discussed the Stage Run development. Infrastructure along Mystery Wagon Road and Bavarian Lode Drive is expected to be dedicated to the city shortly.

A developer is interested in placing townhomes at the top of Burnham Avenue which could result in a small extension of that road.

The 63 unit apartment building at the Ridge development now has water and sewer. Apartments should be available for rent in the near future once a Certificate of Occupancy has been issued.

Planning and Zoning staff attended the South Dakota Planners Association meeting. The annual conference in 2027 will be held in Deadwood.

The Deadwood 150th committee continues to work diligently on celebrations throughout 2026 to celebrate Deadwood's sesquicentennial.

The Beautification and Design Committee is actively working to enhance the community. A project to install fencing along the parking lots that border Sherman Street and Highway 14A will soon begin as part of a beautification initiative.

A visit to Pierre was made to discuss the gaming formula with legislators.

All FEMA documentation has been submitted in an effort to obtain reimbursement.

A Community Access Grant has been applied for with the Department of Transportation for the Event Center.

Ms. Blue-Jones discussed the annual Safety Conference.

Mr. Mohr discussed the water redundancy line project.

8. Adjournment

It was moved by Commissioner Owens and seconded by Commissioner Williams to adjourn the Planning and Zoning Commission Meeting. Voting yea: Martinisko, Keehn, Owens, Williams.

There being no further business, the Planning	g and Zoning Commission adjourned at 4:20 p.m
ATTEST:	
Chairman Planning & Zoning Commission	Secretary Planning & Zoning Commission

Minutes by Leah Blue-Jones, Zoning Coordinator

OFFICE OF PLANNING, ZONING AND HISTORIC PRESERVATION

108 Sherman Street Telephone (605) 578-2082 Fax (605) 722-0786



Kevin Kuchenbecker Planning, Zoning and Historic Preservation Officer Telephone (605) 578-2082

Telephone (605) 578-2082 kevin@cityofdeadwood.com

PLANNING AND ZONING COMMISSION CONDITIONAL USE PERMIT – ANNUAL REVIEW

Staff Report

Date: December 3, 2025

From: Kevin Kuchenbecker

Planning, Zoning & Historic Preservation Officer

To: Planning and Zoning Commission

RE: Annual Review - Conditional Use Permit – Bed and Breakfast

Establishment

APPLICANT(S): Debra Kahler

PURPOSE: Annual Review – Conditional Use Permit – Bed and

Breakfast Establishment

ADDRESS: 54 Taylor Avenue

Deadwood, Lawrence County, South Dakota

LEGAL DESCRIPTION: Lot A, Lot D and Lot E of the subdivision of Lots 67

and 68, the southerly part of Lot 66 Block 35, and parts of Lots 28 through 36, Block 35, of the City of Deadwood, South Dakota, according to Plat Book 3

page 79-90, Lawrence County, South Dakota.

FILE STATUS: Legal obligations remain in compliance.

ZONE: R1 - Residential

STAFF FINDINGS:

Surrounding Zoning: Surrounding Land Uses:

North: R1 – Residential District Residential
South: R1 – Residential District Residential
East: R1 – Residential District Residential

West: PU – Public Use Recreation Center

SUMMARY OF REQUEST

The Deadwood City Commission has directed the Planning and Zoning Commission to conduct annual reviews of all Conditional Use Permits in accordance with City of Deadwood Municipal Code 17.76.060. The applicant was issued a Conditional Use Permit on December 18, 2017, to operate a Bed

and Breakfast Establishment at 54 Taylor Avenue.

The subject property is located within the Presidential Neighborhood and is surrounded by single family dwelling units on three (3) sides.

FACTUAL INFORMATION

- 1. The property is currently zoned R1 Residential District.
- 2. The subject property has access from Taylor Avenue.
- 3. The subject property is located within a medium density land use classification on the adopted Zoning Map.
- 4. The property is not in a Flood Zone.
- 5. Adequate public facilities are available to serve the property.
- 6. The area is characterized by single-family dwelling units.

STAFF DISCUSSION

The applicant was granted a Conditional Use Permit for a Bed and Breakfast Establishment and City regulations permit Bed and Breakfast Establishments in R1 – Residential Districts with an approved Conditional Use Permit. The subject property is a one (1) bedroom, one (1) bath unit located on the subject property as part of a tri-plex. Renters can park in a driveway located on the property.

"Bed and Breakfast Establishment" means:

Any building run by an operator that is used to provide accommodation for a charge to the public, with at most five (5) rental units for up to an average of ten (10) guests per night and in which family style meals are provided as defined and permitted by the State of South Dakota and this Title.

COMPLIANCE:

This Bed & Breakfast Establishment has been in continual use over the last 12 months.

According to Deckard – Rentalscape the property was booked 135 nights in the past 12 months and is listed as a guest favorite on AirBnB.

No complaints are on record for this establishment.

GENERAL USE STANDARDS FOR CONDITIONAL USE PERMITS:

In reviewing any case under the authority of this chapter and as a further guide to its decision upon the facts of the case, the Commission shall consider, among other things, the following facts: A. The Conditional Use is in harmony with the general purposes, goals, objectives, and standards to the city policy plan, the ordinance, the district in which it is located, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice by the City of Deadwood.

The City Comprehensive Plan encourages a variety of uses and a mixture of housing types. Traffic and parking should not significantly affect the neighborhood if the applicant abides by the parking requirements associated with Short-Term Rentals.

B. Whether or not a community need exists for the Conditional Use at the location in light of existing and proposed uses of a similar nature in the area and of the need to provide or maintain a proper mix of uses both within the city and also within the immediate area of the use: (a) the use in the current location has not resulted in either a detrimental over concentration of a particular use from previously permitted uses within the city or within the immediate area of the use.

The subject area is zoned R1– Residential District and is intended to provide locations for medium density, residential development commensurate with an urban area. The use as a Bed and Breakfast Establishment has not resulted in an over-concentration of Short-Term Rentals in this area.

C. The Conditional Use at this location has not resulted in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvement, public sites, or rights-of-way.

The applicant only uses off-street parking and prevents any public nuisance issues that are often associated with Short-Term Rentals. The proposed use should not result in a substantial or undue adverse effect on adjacent property, or the character of the neighborhood and the use would not alter the character of the neighborhood.

D. Whether or not the Conditional Use increases the proliferation of nonconforming uses as well as previously Conditional Use Permits which are still in use, when influenced by matters pertaining to the public health, safety, and general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of provisions and policies of the Policy Plan, this ordinance, or any other plan, program, map or ordinance adopted, or under consideration pursuant to official notice, by the city or other governmental agency having jurisdiction to guide growth and development.

For any Conditional Use, lot and performance standards shall be the same as similar types located in specific districts. The character and use of buildings and structures adjoining or near the property mentioned in the application shall be considered in their entirety.

The current use has not increased the proliferation of non-conforming uses. The subject residence is in a neighborhood that does have additional Short-Term Rentals. The appearance of the structure has not changed; therefore, the character and use of the buildings and structures adjoining the subject property has not been adversely affected.

E. Whether or not the Conditional Use in the proposed area has been adequately served by and has not imposed an undue burden on any of the improvements, facilities, utilities, and services specified in the ordinance.

The Conditional Use has not caused significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services. Existing services are available onsite. All utilities have been assigned commercial rates.

CONDITIONS GOVERNING APPLICATIONS AND PROVISIONS:

- A. In the R-1 Residential District and/or R2 Multi-Family Residential District, Conditional Use Permits granted shall be temporary in nature, except for townhouses, condominiums and multi-family dwellings, and shall be granted to a designated person who resides at the residential address. They are not transferable from person to person or from address to address.
- B. Following the issuance of a Conditional Use Permit, such permit may be amended, varied or altered only pursuant to the standards and procedures established by ordinance for its original approval.
- C. Conditional Use Permits, once granted, can be revoked by the Board of Adjustment for cause after a hearing is held before them. Complaints seeking the revocation of such a permit shall be filed with the Zoning Administrator and may be initiated by the Planning and Zoning Commission or any three (3) residents within three hundred (300) feet of the property lines of which the application has been filed. All such revocation hearings shall be conducted in the same manner as for the Conditional Use Permit application hearings.
- D. The Planning and Zoning Commission shall have the authority to review Conditional Use Permits at any time and on an annual basis and place additional stipulations to mitigate a problem.
- E. Any use permitted under the terms of any Conditional Use Permit shall be

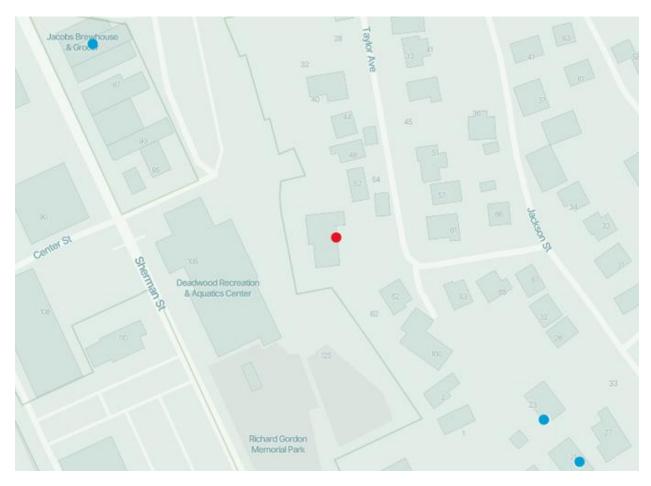
- established and conducted in conformity with the terms of such a permit and of any conditions designated in connection herewith.
- F. If the use permitted under the terms of a Conditional Use Permit ceases, for whatever reason, for a period of twelve (12) months, the permit shall expire and be canceled by the City Planning Department. Written notice thereof shall be given to the person(s) affected, together with notice that further use or work as described in the canceled permit shall not proceed, unless and until a new Conditional Use Permit has been obtained.

If continuation of the Conditional Use Permit is approved, staff will continue to recommend the following conditions:

- 1. The Conditional Use Permit runs with the applicant and not the land; therefore, should the property be sold, the Conditional Use Permit is null and void.
- 2. Proof of a state sales tax number from the South Dakota Department of Revenue has been provided to the Planning and Zoning Office for their files.
- 3. The Building Inspector has inspected the building, and it meets applicable building codes.
- 4. City water and sewer rates are to remain at commercial rates.
- 5. Proper paperwork has been filed with the City of Deadwood Finance Office for Business Improvement District (BID) taxes.
- 6. A City of Deadwood Business License has been maintained.
- 7. A Lodging License from the South Dakota Department of Health has been maintained.
- 8. All parking shall remain off street.
- 9. The Bed and Breakfast Establishment must provide family style meals by the operator.

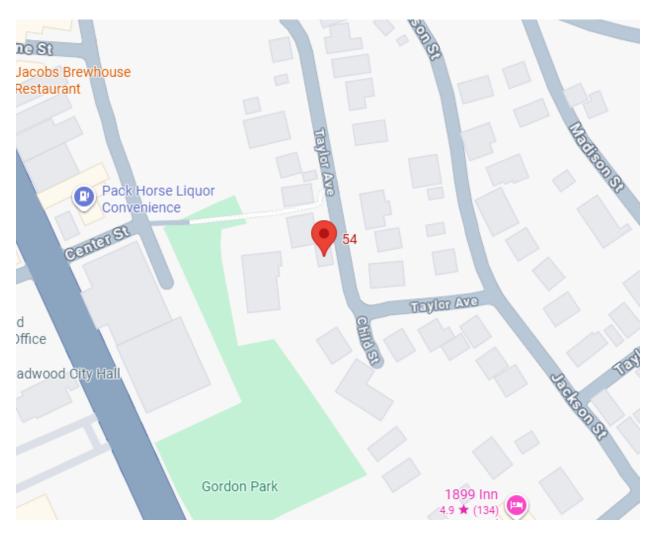
ACTION REQUIRED FOR CONTINUED USE OF CONDITIONAL USE PERMIT:

1. Approval/Denial by Deadwood Planning and Zoning Commission



Map showing locations of nearby Short-Term Rentals to 54 Taylor Avenue

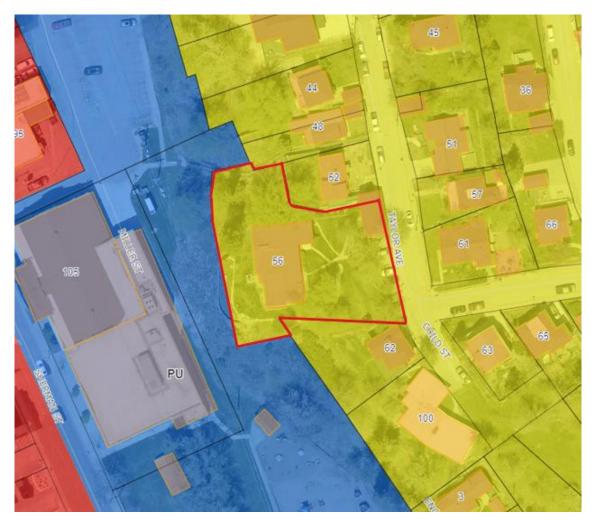




Map showing location of 54 Taylor Avenue







Zoning map showing 54 Taylor Avenue

Zoning Legend

- C1 COMMERCIAL
- CE COMMERCIAL ENTERPRISE DISTRICT
- CH COMMERCIAL HIGHWAY
- PF PARK FOREST
- PU PUBLIC USE
- PUD PLANNED UNIT DEVELOPMENT
- R1 RESIDENTIAL
- R2 MULTI-FAMILY RESIDENTIAL



Aerial photo of 54 Taylor Avenue

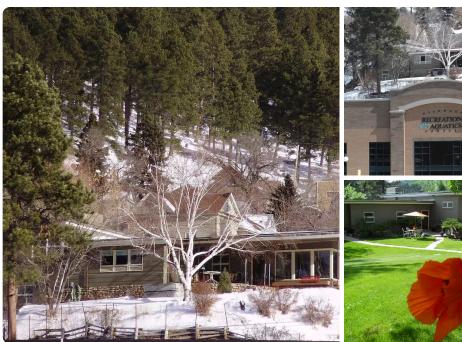








Deadwood Vacation Rental Apartment











Entire rental unit in Deadwood, South Dakota

 $3 \text{ guests} \cdot 1 \text{ bedroom} \cdot 2 \text{ beds} \cdot 1 \text{ bath}$

Guest 483 4.96



Hosted by Debra

Superhost · 11 years hosting



Top 5% of homes

This home is highly ranked based on ratings, reviews, and reliability.



Self check-in

Check yourself in with the keypad.



Beautiful and walkable

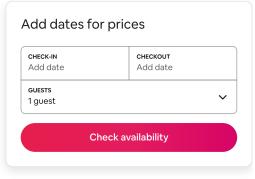
Guests say this area is scenic and it's easy to get around.

The home is located in the Historic Deadwood Presidential neighborhood, that sets on the side of the cliff overlooking Deadwood, with magnificent mountain views.

Walking distance to all attractions - , restaurants, casinos, concerts, nightlife, museums and fitness center. Just steps away from everything Deadwood has to offer - literally - 116 steps down into the gulch.

The Deadwood City Rec & Aquatics fitness center is located at the base of the stairs, and stones throw from the apartment.

Show more



Report this listing

Where you'll sleep



Bedroom 2 queen beds

What this place offers

- City skyline view
- Mountain view
- Kitchen
- ্কি Wifi
- Dedicated workspace
- Free driveway parking on premises 1 space
- 42 inch HDTV with Roku, DVD player
- Free washer In building
- Free dryer In building
- ₩ Window AC unit

Show all 61 amenities

Accessibility features

This info was provided by the Host and reviewed by Airbnb.



Guest entrance and parkingDisabled parking spot



Guest entrance and parking Lit path to the guest entrance

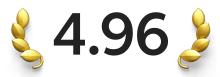
Show all 2 features

Select check-in date

Add your travel dates for exact pricing

	November 2025							December 2025						>
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16	17	18	19	20	21	22		21	22	23	24	25	26	27
23	24	25	26	27	28	29		28	29	30	31			
30														

Clear dates



Guest favorite

This home is in the **top 5%** of eligible listings based on ratings, reviews, and reliability





Jaggi & Jenni

Tennessee City, Tennessee

★★★★ · September 2025 · Stayed one night

We had a wonderful stay in Deadwood! Debra was a fantastic host, so welcoming and helpful. Jake, the golden retriever was such a good boy and made us feel right at home. We really appreciated the route recommendations and the Mount Rushmore passes. The house itself was very nice with all the amenities we needed. Highly recommend!

Show more



Matthew 3 years on Airbnb

 $\star\star\star\star\star\cdot$ 1 week ago · Stayed a few nights

We had an awesome time at Debra's airbnb. The place was clean, well furnished, and homey. A short walk down some stairs a large cliff brings you very close to the main street in Deadwood, so there's no unnecessary walking. Would stay again!

Show more



Julie Hastings, Minnesota

**** · September 2025 · Stayed a few nights

We loved the idea of staying in Deadwood, but we didn't want the typical chain hotel feel. This home was perfect, right in town, a stairway walk into the heart of downtown. It's a great mid century tri-plex, but we rarely saw anyone. It's on a quiet dead end street. I loved the luxurious bedding, full kitchen, strong wifi and TV's if you choose to watch. Great water pressure and plenty of bathroom amenities. We'll definitely try to book this place next time we...

Show more



Rick Racine, Wisconsin

**** · September 2025 · Stayed a few nights

We stayed for three nights. The Home was everything described in the listing, very beautiful and then some. All of our needs were met. It was a great location to see Deadwood. Debra was wonderful with offering us info on Dining and places to see.

Show more



Margie

Sioux Falls, South Dakota

**** · September 2025 · Stayed a few nights

Would be a great value if you could have 2 couples staying, but they advertise 3 ppl max. I think it's because of parking (only one spot for the vacation home). A little expensive for just 2 people. But the place was really great. Debra is also very nice. Location worked great for us.

Show more



Donald

Omaha, Nebraska

$\star\star\star\star\star$ · August 2025 · Stayed one night

Fantastic stay for me and a friend in Deadwood. easy walk to the fun of Deadwood and the unit was extremely well kept. had the pleasure to run in to Debra as we arrived and she was extremely friendly and informative. would 100% stay there again if available next time I am there!

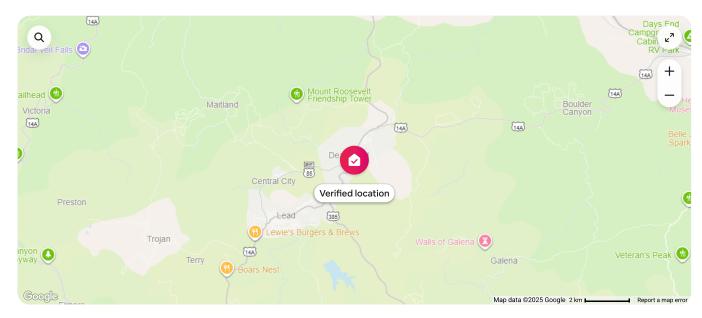
Show more

Show all 483 reviews

Learn how reviews work

Where you'll be

Deadwood, South Dakota, United States



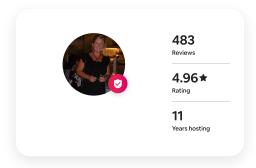
We verified that this listing's location is accurate. $\underline{\text{Learn more}}$

Neighborhood highlights

"The Presidential Neighborhood" Small town quiet historical neighborhood with narrow residential streets. Located on Boot Hill's "Mount Moriah Cemetery", the resting place of the infamous "Wild Bill Hickok"

Show more >

Meet your host





Born in the 60s



My work: Retired Airbnb host

Home owner, host and retired Property Manager.

Debra is a Superhost

Superhosts are experienced, highly rated hosts who are committed to providing great stays for guests.

Additional details

Response rate: 90% Responds within an hour

Message host



To help protect your payment, always use Airbnb to send money and communicate with hosts.

Things to know



Cancellation policy

Add your trip dates to get the cancellation details for this stay. Add dates



House rules

Check-in after 2:00 PM Checkout before 11:00 AM 3 guests maximum Learn more



Safety & property

Carbon monoxide alarm Smoke alarm Must climb stairs <u>Learn more</u>

Airbnb > United States > South Dakota > Lawrence County > Deadwood

OFFICE OF PLANNING, ZONING AND HISTORIC PRESERVATION

108 Sherman Street Telephone (605) 578-2082 Fax (605) 722-0786



Kevin Kuchenbecker Planning, Zoning and Historic Preservation Officer

Telephone (605) 578-2082 kevin@cityofdeadwood.com

PLANNING AND ZONING COMMISSION CONDITIONAL USE PERMIT – ANNUAL REVIEW

Staff Report

Date: December 3, 2025

From: Kevin Kuchenbecker

Planning, Zoning & Historic Preservation Officer

To: Planning and Zoning Commission

RE: Annual Review - Conditional Use Permit - Vacation Home

Establishment

APPLICANT(S): The Nugget

PURPOSE: Annual Review – Conditional Use Permit – Vacation

Home Establishment

ADDRESS: 606 ½ Main Street

Deadwood, Lawrence County, South Dakota

LEGAL DESCRIPTION: Lot 24, in Block 15 of the Original Townsite of the City

of Deadwood, Lawrence County, South Dakota, according to the P.L. Rogers Map except a portion of land along the southerly side of Lot 24, Block 15 being 8 inches in width fronting on Main and back of even width of 100' as set forth in deed and recorded in Book

162 Page 243.

FILE STATUS: Legal obligations have been met.

ZONE: C1 - Commercial

STAFF FINDINGS:

Surrounding Zoning: Surrounding Land Uses:

North: C1 – Commercial District Commercial
South: C1 – Commercial District Commercial
East: C1 – Commercial District Commercial
West: C1 – Commercial District Commercial

SUMMARY OF REQUEST

The Deadwood City Commission has directed the Planning and Zoning Commission to conduct annual reviews of all Conditional Use Permits in accordance with City of Deadwood Municipal Code 17.76.060. The applicant was issued a Conditional Use Permit on December 19, 2023, to operate a Vacation Home Establishment at 606 ½ Main Street.

The subject property is located in the historic downtown commercial district and sits on Main Street among other commercial buildings. The Short-Term Rental is located on the upper floor of the structure.

FACTUAL INFORMATION

- 1. The property is currently zoned C1 Commercial.
- 2. The subject property has access from Main Street.
- 3. The subject property has access to parking via the Broadway Parking Ramp.
- 4. The property is not in a Flood Zone.
- 5. Adequate public facilities are available to serve the property.
- 6. The area is characterized as the core historic business district.

STAFF DISCUSSION

The applicant was granted a Conditional Use Permit for a Vacation Home Establishment and City regulations permit Vacation Home Establishments in C1- Commercial Districts with an approved Conditional Use Permit. The subject property is a one (1) bedroom, one (1) bath unit. Guests can park off-street in the Broadway Parking Ramp.

"Vacation Home Establishment" is defined as:

Any home, cabin, or similar building that is rented, leased, or furnished in its entirety to the public on a daily or weekly basis for more than fourteen (14) days in a calendar year and is not occupied by an owner or manager during the time of rental as defined and permitted by the State of South Dakota.

COMPLIANCE:

This Vacation Home Establishment has been in continual use over the last 12 months.

No complaints are on record for this establishment.

According to Deckard – Rentalscape the property was booked 182 nights in the past 12 months and is listed as a guest favorite on AirBnB.

GENERAL USE STANDARDS FOR CONDITIONAL USE PERMITS:

In reviewing any application under the authority of this chapter and as a further guide to its decision upon the facts of the case, the Commission(s) shall consider, among other things, the following facts:

- A. The proposed use shall be in harmony with the general purposes, goals, objectives, and standards to the city policy plan, the ordinance, the district in which it is located, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice by the City of Deadwood.
 - The City Comprehensive Plan encourages a variety of uses and a mixture of housing types. Traffic and parking should not significantly affect the neighborhood if the applicant continues to abide by the off-street parking requirements associated with Short-Term Rentals. This area is of commercial use.
- B. Whether or not a community need exists for the proposed use at the proposed location in light of existing and proposed uses of a similar nature in the area and of the need to provide or maintain a proper mix of uses both within the city and also within the immediate area of the proposed use: (a) the proposed use in the proposed location shall not result in either a detrimental over concentration of a particular use from previously permitted uses within the city or within the immediate area of the proposed use.
 - The subject area is zoned C1– Commercial District and is intended to provide locations coinciding with the downtown core commercial zone where certain commercial uses and gaming are permitted. The current use has not resulted in an over-concentration of Vacation Home Establishments within the immediate area.
- C. The proposed use at this location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvement, public sites, or rights-of-way.
 - The applicant only uses off-street parking and prevents any public nuisance issues that are often associated with Short-Term Rentals. The current use has not resulted in a substantial or undue adverse effect on adjacent property, or the character of the neighborhood and the use has not altered the character of the neighborhood.
- D. Whether or not a previously approved Conditional Use Permit that is still in use increases the proliferation of nonconforming uses. For any conditional use, lot and performance standards shall be the same as similar type uses located in specific districts. The character and use of buildings and structures adjoining or near the property mentioned in the application shall be considered in their entirety.

The current use has not increased the proliferation of non-conforming uses. The subject residence is in an area that has a large number of hotels and Short-Term Rentals. The appearance of the structure has not changed; therefore, the character and use of the buildings and structures adjoining the subject property have not been adversely affected.

E. Whether or not the current use in the proposed area will be adequately served by, and will not impose an undue burden on, any improvements, facilities, utilities, and services.

The proposed use has not caused significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services. Existing services are available onsite. All utilities have been assigned commercial rates.

CONDITIONS GOVERNING APPLICATIONS AND PROVISIONS:

- A. Conditional Use Permits shall be temporary in nature. They are not transferable from person to person or from address to address.
- B. Following the issuance of a Conditional Use Permit, such permit may be amended, varied, or altered only pursuant to the standards and procedures established for its original approval.
- C. The Board of Adjustments can revoke Conditional Use Permits, once granted, for cause after a hearing is held before them. Complaints seeking the revocation of such permit shall be filled with the Planning and Zoning Administrator and may be initiated by the Planning and Zoning Commission OR any three (3) residents within three hundred (300) feet of the property lines of which the application has been filed. All such revocation hearings shall be conducted in the same manner as for the Conditional Use Permit application hearings.
- D. The Planning and Zoning Commission shall have the authority to review Conditional Use Permits at any time and/or on an annual basis and place additional stipulations to mitigate a problem.
- E. Any use permitted under the terms of any Conditional Use Permit shall be established and conducted in conformity with the terms of such permit and of any conditions designated in connection therewith.
- F. If the use permitted under the terms of a Conditional Use Permit has not been started within six (6) months of the date of issuance thereof, said permit shall expire and be canceled by the City Planning Department. Written notice thereof shall be given to the person(s) affected, together with notice that further use or work as described in the canceled permit shall not proceed, unless and until a new Conditional Use Permit has been obtained.
- G. If the use permitted under the terms of a Conditional Use Permit ceases,

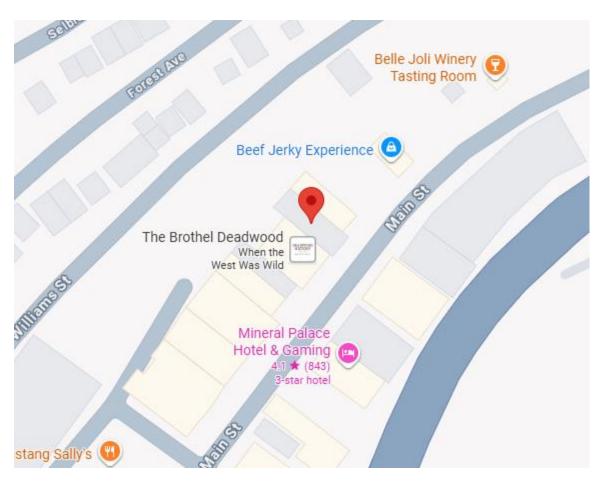
for whatever reason, for a period of twelve (12) months, said permit shall expire and be canceled by the City Planning Department. Written notice thereof shall be given to the person(s) affected, together with notice that further use or work as described in the canceled permit shall not proceed, unless and until a new Conditional Use Permit has been obtained.

If approved for continued use, staff recommends for stipulation(s):

- 1. Proof of a South Dakota Department of Revenue sales tax number has been provided to the Planning and Zoning Office for their files.
- 2. Provide a copy of the South Dakota Department of Health Lodging License to the Planning and Zoning Office for their files on an annual basis.
- 3. Maintain a City of Deadwood Business License.
- 4. Proper paperwork is filed with the City of Deadwood Finance Office for Business Improvement District (BID) taxes.
- 5. The Building Inspector has inspected the building, and it meets all relevant building codes.
- 6. City water and sewer to remain at commercial rates.
- 7. All parking shall be off street.

ACTION REQUIRED FOR CONDITIONAL USE PERMIT:

1. Approval/Denial of continued use by Deadwood Planning and Zoning Commission



Map showing location of 606 ½ Main Street





Aerial photo of 606 ½ Main Street, Deadwood, SD 57732.



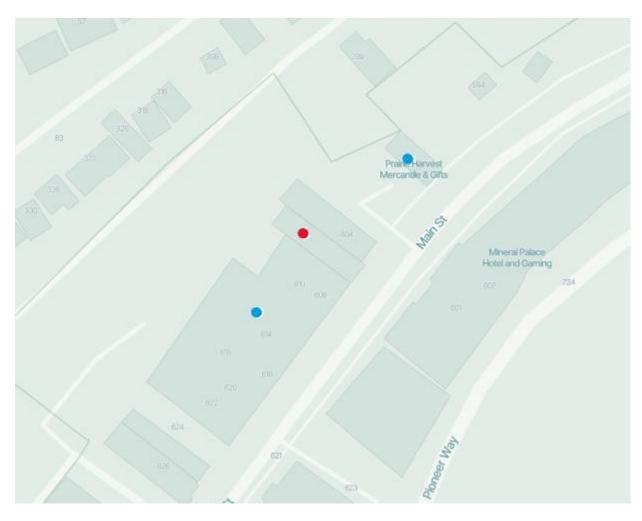




Zoning map showing 606 ½ Main Street

Zoning Legend

- C1 COMMERCIAL
- CE COMMERCIAL ENTERPRISE
- CH COMMERCIAL HIGHWAY
- PF PARK FOREST
- PU PUBLIC USE
- PUD PLANNED UNIT DEVELOPMENT
- R1 RESIDENTIAL
- R2 MULTI-FAMILY RESIDENTIAL



Map showing locations of nearby Short-Term Rentals to 606 ½ Main Street.





Open app **坐**

USD Trip Boards List your property Help My trips Sign in

Home > Vacation Rentals > United States of America > South Dakota > Lawrence County > Deadwood >

Nugget Suite - Main Street, Deadwood















Apartment

Nugget Suite - Main Street

Apartment in Deadwood with kitchen



Overview

Amenities

Policies

Location



See all 19 reviews >

1 bedroom

1 bathroom

Sleeps 4

Popular amenities

Parking available

Dryer

Washer

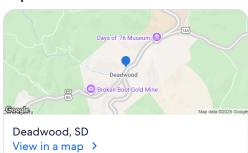
Pet friendly

Kitchen

Air conditioning

See all >

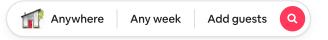
Explore the area



- Deadwood Mountain Grand 5 min walk
- Deadwood Welcome Center 6 min walk
- Cadillac Jacks Casino 8 min walk

See all about this area >

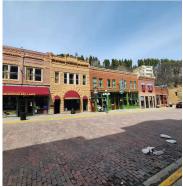






Nugget Suite - Main Street











Entire rental unit in Deadwood, South Dakota

 $4 \text{ guests} \cdot 1 \text{ bedroom} \cdot 2 \text{ beds} \cdot 1 \text{ bath}$

Guest 5.0 42 favorite **** Reviews



Hosted by Wayne

Superhost · 8 years hosting



Top 5% of homes

This home is highly ranked based on ratings, reviews, and reliability.



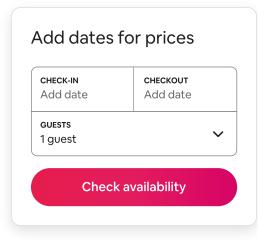
Self check-in

Check yourself in with the keypad.



Comfy bed for better sleep

The room-darkening shades and extra bedding are loved by guests.



Report this listing

Overlooking all things Deadwood and literally steps away from shopping, saloons, restaurants and gaming!

The space

Overlooking all things Deadwood and literally steps away from shopping, saloons, restaurants and gaming!

The property has one bedroom with an adjustable king bed and the livin...

Show more

Where you'll sleep



Living room 1 sofa bed, 2 air mattresses



Bedroom 1 king bed, 2 air mattresses

What this place offers

| Kitchen

্কি Wifi

Free parking on premises

‰ Pets allowed

TV

(Nasher

Free dryer – In building

Air conditioning

Bathtub

Carbon monoxide alarm

Show all 49 amenities

Select check-in date

Add your travel dates for exact pricing

	November 2025							December 2025						>
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9	10	11	12	13	14	15	1	14	15	16	17	18	19	20
16	17	18	19	20	21	22	2	21	22	23	24	25	26	27
23	24	25	26	27	28	29	2	28	29	30	31			
30														

-<u>--</u>--Clear dates



Guest favorite

This home is in the top 5% of eligible listings based on ratings, reviews, and reliability

Overall rating	Cleanliness	Accuracy	Check-in	Communication	Location	Value
5 ———	5.0	5.0	5.0	5.0	5.0	5.0
4						
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1	2	igotimes	42	Ç	Ш	



Gregory 4 years on Airbnb

★★★★ · 4 weeks ago · Stayed a few nights

Beautiful place. Has everything you need and is nicely decorated. Right on in the middle of the action in Deadwood. Parking is in a ramp but only cost 5\$/day and is right behind the apartment. A little noisy from downtown activities at night but that was expected. There are stairs to get into the apartment.

Show more



Pete Los Angeles, California

★★★★ · September 2025 · Stayed with a pet

Spent 2 nights at the suite and it was super comfortable, charming and right in the middle of all the action and history of Deadwood. Great views of Main Street with forest in the background. Just a half block away is the bar in which Wild Bill was killed. One door down is a tour of a historic brothel. The apartment felt vintage while also feeling very clean and taken care of.

Show more



SharonTippecanoe, Ohio

★★★★ · August 2025 · Stayed a few nights

We loved this place! It was perfect! Wayne and Lee were very helpful! We meet Lee and he told us about some local spots! The only downside is getting a lot of luggage, coolers, etc into the rental, but that wouldn't keep us from returning! I really liked the bay window overlooking Downtown Deadwood Main Street! I spent a lot of there people watching! Thanks for a great ...

Show more



Wendy Graeagle, California

★★★★ · 2 weeks ago · Stayed with a pet

Wayne and Lee were exceptional hosts; whom responded quickly on a regular basis.

The apartment was the exact location we had hoped for being downtown Deadwood to explore the fascinating history of the area. ...

Show more



Aaron

Red Lodge, Montana

 $\star\star\star\star\star\cdot$ 3 weeks ago \cdot Stayed one night

We had a great stay! The place was clean, comfortable, and exactly as described. The host was responsive and made check-in super easy. The location was convenient—close to restaurants, shops, and local attractions. Overall, a great experience and would definitely stay here again.

Show more



Kristin2 years on Airbnb

★★★★ · October 2025 · Stayed a few nights

Loved staying at the Nugget Suite. Host was great to work with. Always responsive. Loved the convenience of wal Main Street. Was clean and comfortable. Thank you. Would recommend suite to anyone!

Show more

Show all 42 reviews

How reviews work

Where you'll be

Deadwood, South Dakota, United States



Meet your host



8 Years hosting



Lives in Deadwood, South Dakota

Proudly hosting guests in Deadwood, SD since the 2000's. We look forward to each one of our guest's stays. For my family and I, it is a pleasure to host you!

Wayne is a Superhost

Superhosts are experienced, highly rated hosts who are committed to providing great stays for guests.

Additional details

Response rate: 100% Responds within an hour

Message host



To help protect your payment, always use Airbnb to send money and communicate with hosts.

Things to know



Cancellation policy

Add your trip dates to get the cancellation details for this stay. Add dates



House rules

Check-in after 3:00 PM Checkout before 11:00 AM 4 guests maximum Learn more



Safety & property

Carbon monoxide alarm not reported Smoke alarm Not suitable for children and infants Learn more

Airbnb > United States > South Dakota > Lawrence County > Deadwood

Explore other options in and around Deadwood

Estes Park Vacation rentals Fort Collins Vacation rentals **Rapid City** Vacation rentals

Billings Vacation rentals Cheyenne Vacation rentals **Mount Rushmore** Vacation rentals

OFFICE OF PLANNING, ZONING AND HISTORIC PRESERVATION

108 Sherman Street Telephone (605) 578-2082 Fax (605) 578-2084



Kevin Kuchenbecker Planning, Zoning and Historic Preservation Officer Telephone (605) 578-2082 kevin@cityofdeadwood.com

PLANNING AND ZONING COMMISSION STAFF REPORT APPLICATION FOR PLAT

Date: December 3, 2025

From: Kevin Kuchenbecker

Planning, Zoning & Historic Preservation Officer

To: Planning and Zoning Commission

RE: Application for Plat

APPLICANT: PSF LLC

PURPOSE: Create one (1) new lot.

LEGAL DESCRIPTION: Booster Station Lot, Block 4 of Palisades Tract of

Deadwood Stage Run Addition to the City of Deadwood all located in the SW ¼ of Section 14, the SE ¼ of Section 15, the NE ¼ NE ¼ of Section 22 and the N ½ NW ¼ of Section 23, T5N, R3E, B.H.M., City of

Deadwood, Lawrence County, South Dakota.

FILE STATUS: All legal obligations have been completed.

STAFF FINDINGS:

Surrounding Zoning: Surrounding Land Uses:

North: R2 – Multi-Family Open Space South: R1 - Residential Open Space

East: R2 – Multi-Family Future Dwellings

West: R1 – Multi-Family Open Space

SUMMARY OF REQUEST

The purpose of this plat is to create a lot to house a booster station. The booster station will be used to pump water to higher elevations within the Stage Run development.

FACTUAL INFORMATION

- 1. The property is currently zoned R1 Residential.
- 2. The lot will be comprised of 5,706.36 square feet <u>+</u> which equates to 0.131 acres <u>+</u>.
- 3. The property is not located within the floodplain.
- 4. Public facilities are available to serve the property.
- 5. The area is currently characterized by open space that has been platted into future residential lots.

STAFF DISCUSSION

The property is owned by PSF, LLC.

- 1. The North Arrow is shown on the plat with a direct reference to the coordinate mapping system.
- 2. Land is identified with a new legal description for the transfer of the land.
- 3. Surveyor's Certificate is shown with the name of the surveyor and his registered land surveyor number.
- 4. A date is shown on the plat and serves to "fix in time" the data represented on the plat.
- 5. The street bounding the lot is shown and named.
- 6. All certifications are indicated and correct on the plat.
- 7. Dimensions, angles and bearings are shown along the lot lines.
- 8. Scale of the plat is shown and accompanied with a bar scale.
- 9. Area's taken out of the mineral survey and remaining acreage is indicated on the plat.

ACTION REQUIRED:

1. Approval/Denial by Planning and Zoning Commission

Return Completed Form To: **Planning and Zoning** 108 Sherman Street Deadwood, SD 57732



Questions Contact.

Kevin Kuchenbecker (605) 578-2082 or kevin@cityofdeadwood.com

Application	No.	
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APPLICATION FOR PLAT

Application/Filing Fee: \$200.00 per lot

The application fee needs to be paid when plat is submitted to the Planning and Zoning Office.

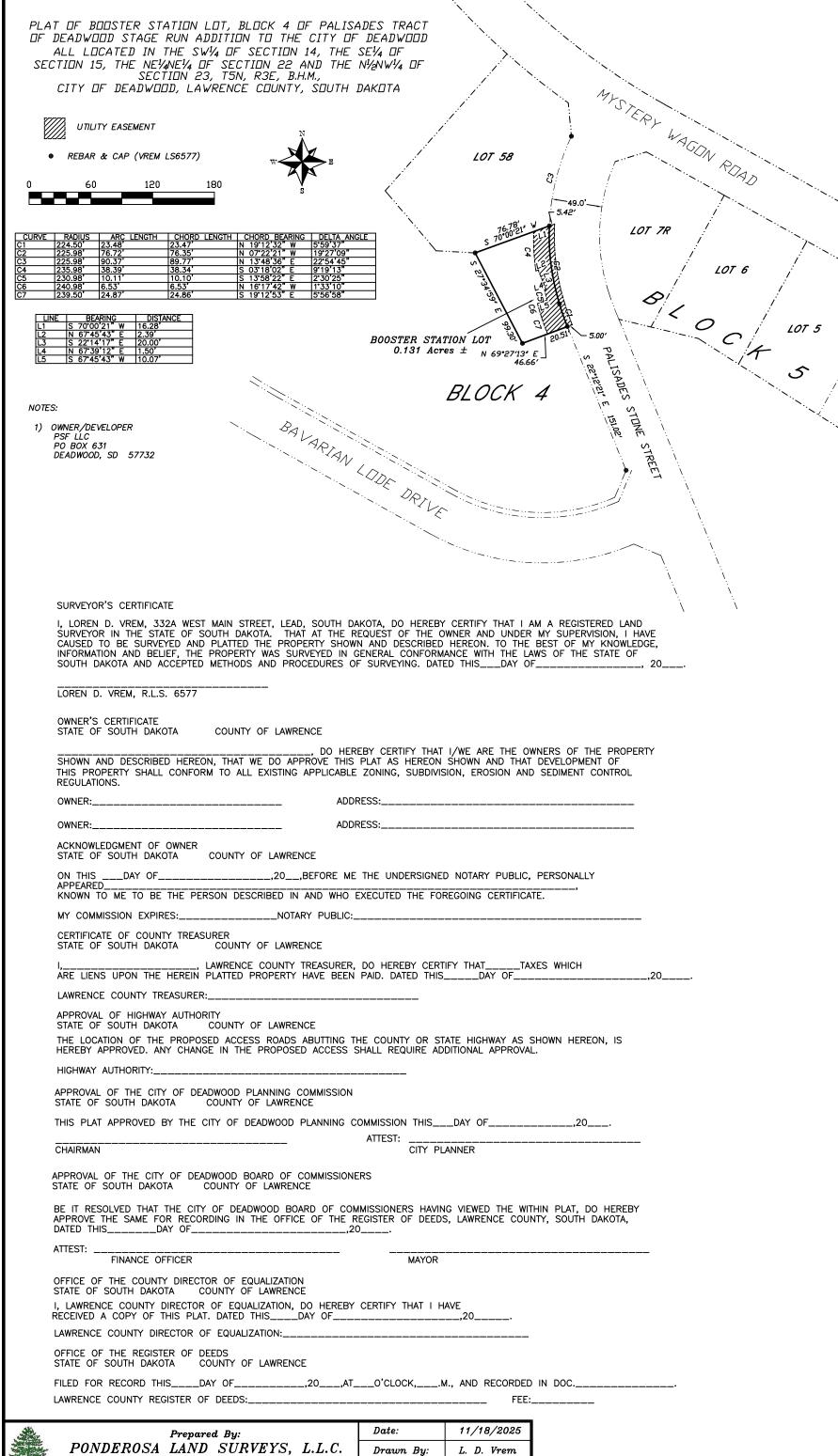
Applicants: Please read thoroughly prior to completing this form. Only complete applications will be considered for review. Applications must be received no later than fifteen (15) days prior to the P&Z Commission meeting. Mylar(s) must be received by the Planning and Zoning office no later than the Wednesday before the scheduled meeting. The Planning and Zoning Commission meets the first and third Wednesday of each month.

Applicant:	PSJ LLC.			
Address:	10 Sax 651	lesson	5	57252
Street		Ćity	State	Zip
Phone Number: _	920-1240	Email Address:	19 planton	To live. con
Property Address:	TAINADERV	TONE	0.1	
Property Owner: _	PS,UC	Symmet a	ASR	
Property Owner Pl	hone Number: 97	9/140		
Full Legal Descript	ion of Property:			
Purpose of this Pla	at: At Booten Tax	rn Zor Devs	10 Am 27	
Summary of this P	Plat:			

1. The following documents shall be submitted:

- a. An improvement survey, including all easements,
- b. Development plan, including site plan with location of buildings, usable open space, off-street parking, loading areas, refuse area, ingress/egress, screening, proposed or existing signage, existing streets, and
- c. A copy of the full legal description from the Lawrence County Register of Deeds Office.

The North Arrow is show system.	n on the plat wi	th a direct referer	nce to the coordinate mapping				
Land is identified with a	🛮 Land is identified with a new legal description for the transfer of the land.						
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Prepared By:
PONDEROSA LAND SURVEYS, L.L.C.
332B WEST MAIN STREET
LEAD, SD 57754
(605) 722-3840

Date:	11/18/2025	
Drawn By:	L. D. Vrem	
Project No.:	25-452	
Dana No.	25-452 daya	





Zoning map showing Stage Run Booster Station Location

Zoning Legend

- C1 COMMERCIAL
- CE COMMERCIAL ENTERPRISE DISTRICT
- CH COMMERCIAL HIGHWAY
- PF PARK FOREST
- PU PUBLIC USE
- PUD PLANNED UNIT DEVELOPMENT
- R1 RESIDENTIAL
- R2 MULTI-FAMILY RESIDENTIAL









Conducting the Public's Business in Public

A guide to South Dakota's Open Meetings Laws (Revised 2025)

> Prepared by: S.D. Attorney General's Office in partnership with the S.D. NewsMedia Association

> Published by: South Dakota NewsMedia Association 1125 32nd Ave. Brookings, SD 57006

WHAT ARE SOUTH DAKOTA'S OPEN MEETINGS LAWS?

• South Dakota's open meetings
• laws embody the principle that
the public is entitled to the greatest
possible information about public affairs
and are intended to encourage public
participation in government. SDCL Ch.
1-25 requires that official meetings of
public bodies must be public and advance
notice is to be given of such meetings.
The statutes define an "official meeting"
as one where a quorum of the public body
is present and at which official business
or public policy of the body is discussed
or decided. Openness in government is
encouraged.

WHO DOES THE OPEN MEETINGS LAWS APPLY TO?

The open meetings laws apply to all public bodies of the state and its political subdivisions. SDCL 1-25-1, 1-25-12(3). This includes cities, counties, school boards and other public bodies created by ordinance or resolution, such as appointed boards, task forces, and committees, so long as they have authority to exercise sovereign power. SDCL 1-25-12(2). Although no court decisions have been issued on the subject, this probably does not include bodies that serve only in an advisory capacity. The State Constitution allows the Legislature and the Unified Judicial System to create rules regarding their own separate functions.

ARE TELECONFERENCES CONSIDERED PUBLIC MEETINGS?

Yes. The open meetings laws allow meetings, including executive or closed meetings, to be conducted by teleconference – defined as an exchange of information by audio, video, or electronic means (including the internet) – if a place is provided for the public to participate. SDCL 1-25-1.5, 1-25-12(5). In addition, for teleconferences where

less than a quorum of the present at the location open to the public, arrangements must also be made for the public to listen by telephone or internet (except for portions of meetings properly closed for executive sessions). SDCL 1-25-1.6. The media and public must be notified of teleconference meetings under the same notice requirements as any other meeting.

HOW ARE THE PUBLIC AND MEDIA NOTIFIED WHEN PUBLIC BUSINESS IS BEING DISCUSSED?

SDCL 1-25-1.1 requires that all political subdivisions (except the state and its boards, commissions, or departments as provided in § 1-25-1.3) prominently post a notice and copy of the proposed agenda at the political subdivision's principal office. At a minimum, the proposed agenda must include the date, time, and location of the meeting and must be visible. readable, and accessible to the public for 24 continuous hours immediately preceding the meeting. Also, if the political subdivision has its own website. the notice must be posted on the website upon dissemination of the notice. For special or rescheduled meetings, political subdivisions must comply with the regular meeting notice requirements as much as circumstances permit. The notice must be delivered in person, by mail, by email, or by telephone to all local news media who have asked to be notified. It is good practice for local media to renew requests for notification of special or rescheduled meetings at least annually.

SDCL 1-25-1.3 varies slightly from SDCL 1-25-1.1 and requires the State and it's agencies, boards, commissions, or departments to give notice by posting a proposed agenda at least 72 continuous hours before a meeting is scheduled to start (this does not include any weekend or legal holiday). The State is also required to give notice of a public meeting by posting its proposed agenda on http://boardsandcommissions.sd.gov.

WHO ARE LOCAL NEWS MEDIA?

There is no definition of "local news media" in SDCL ch. 1-25. "News media" is defined in SDCL 13-1-57 generally as those personnel of a newspaper, periodical, news service, radio station, or television station regardless of the medium through which their content is delivered. The Attorney General is of the opinion that "local news media" is all news media – broadcast and print – that regularly carry news to the community.

IS A PUBLIC COMMENT PERIOD REQUIRED AT PUBLIC MEETINGS?

Yes. Public bodies are required to provide at every official meeting a period of time on their agenda for public comment. SDCL 1-25-1. Each public body has the discretion to limit public comment as to the time allowed for each topic commented on, and as to the total time allowed for public comment. Public comment is not required at meetings held solely for an executive session, inauguration, presentation of an annual report, or swearing in of elected officials.

CAN PUBLIC MEETINGS BE RECORDED?

A• Yes, SDCL 1-25-11 requires public bodies to allow recording (audio or video) of their meetings if the recording is reasonable, obvious, and not disruptive. This requirement does not apply to those portions of a meeting confidential or closed to the public.

WHEN CAN A MEETING BE CLOSED TO THE PUBLIC AND MEDIA?

A. SDCL 1-25-2 allows a public body to close a meeting for the following purposes: 1) to discuss personnel issues pertaining to officers or employees; 2) consideration of the performance or discipline of a student, or the student's participation in interscholastic activities; 3) consulting with legal counsel, or reviewing communications from legal counsel about proposed or pending litigation or

contractual matters; 4) emp negotiations; 5) to discuss marketing or pricing strategies of a publicly-owned competitive business; or 6) to discuss information related to the protection of public or private property such as emergency management response plans or other public safety information. The statute also recognizes that executive session may be appropriate to comport with other laws that require confidentiality or permit executive or closed meetings. Federal law pertaining to students and medical records will also cause school districts and other entities to conduct executive sessions or conduct meetings to refrain from releasing confidential information. Meetings may also be closed by cities and counties for certain economic development matters. SDCL 9-34-19.

Note that SDCL 1-25-2 and SDCL 9-34-19 do not require meetings be closed in any of these circumstances.

Any official action based on discussions in executive session must, however, be made at an open meeting.

WHAT IS THE PROPER PROCEDURE FOR EXECUTIVE SESSIONS?

Motions for executive sessions must refer to the specific state or federal law allowing for the executive session i.e. "pursuant to SDCL 1-25-2(3)." Also, best practice to avoid public confusion would be that public bodies explain the reason for going into executive session. For example, the motion might state "motion to go into executive session pursuant to SDCL 1-25-2(1) for the purposes of discussing a personnel matter," or "motion to go into executive session pursuant to SDCL 1-25-2(3) for the purposes of consulting with legal counsel."

Discussion in the executive session must be strictly limited to the announced subject. No official votes may be taken on any matter during an executive session. The public body must return to open session before any official action can be taken.

WHAT HAPPENS IF THE MEDIA OR PUBLIC IS IMPROPERLY EXCLUDED FROM A MEETING OR OTHER VIOLATIONS OF THE OPEN MEETING LAWS OCCUR?

• Excluding the media or public from a meeting that has not been properly closed subjects the public body or the members involved to: (a) prosecution as a Class 2 misdemeanor punishable by a maximum sentence of 30 days in jail, a \$500 fine or both; or (b) a reprimand by the Open Meeting Commission ("OMC"). The same penalties apply if the agenda for the meeting is not properly posted, or other open meeting violations occur.

Also, action taken during any meeting that is not open or has not been properly noticed could, if challenged, be declared null and void.

HOW ARE ISSUES REFERRED TO THE OPEN MEETINGS COMMISSION ("OMC")?

Persons alleging violations of the open meetings laws must make their complaints with law enforcement officials in the county where the offense occurred. After a signed and notarized complaint is made under oath, and any necessary investigation is conducted, the State's Attorney may: (a) prosecute the case as a misdemeanor; (b) find that the matter has no merits and file a report with the Attorney General for statistical purposes; or (c) forward the complaint to the OMC for a determination. The OMC is comprised of five State's Attorneys or Deputy State's Attorneys appointed by the Attorney General. The OMC examines whether a violation has occurred and makes written public findings explaining its reasons. If you have questions on the procedures or status of a pending case, you may contact the Attorney General's Office at 605-773-3215 to talk to an assistant for the OMC. Procedures for the OMC are posted on the website for the Office of Attorney General. http://atg.sd.gov/.

WHAT DOES THE Section 7 Her. "SOVEREIGN POWER" MEAN?

The open meetings laws do not define this term, but it generally means the power to levy taxes, impose penalties, make special assessments, create ordinances, abate nuisances, regulate the conduct of others, or perform other traditional government functions. The term may include the exercise of many other governmental functions. If an entity is unclear whether it is exercising "sovereign power" it should consult with legal counsel.

MAY AGENDA ITEMS BE CONSIDERED IF THEY ARE ADDED LESS THAN 24 HOURS BEFORE A MEETING?

Proposed agendas for public meetings must be posted at least 24 hours in advance of the meeting. The purpose of providing advance notice of the topics to be discussed at a meeting is to provide information to interested members of the public concerning the governing body's anticipated business. Typically, the public body adopts the final agenda upon convening the meeting. At the time the final agenda is adopted, the governing body may add or delete agenda items and may also change the order of business. See In re Yankton County Commission, Open Meetings Commission Decision # 20-03, December 31, 2020. New items cannot be added after the agenda has been adopted by the governing body.

Public bodies are strongly encouraged to provide at least 24 hours' notice of all agenda items so as to be fair to the public and to avoid dispute.

For special or rescheduled meetings, public bodies are to comply to the extent circumstances permit. In other words, posting less than 24 hours in advance may be permissible in emergencies.

ARE EMAIL DISCUSSIONS "MEETINGS" FOR PURPOSES OF THE OPEN MEETINGS LAWS?

A. The definition of an "official meeting" in SDCL 1-25-12(1) specifically includes meetings conducted by "electronic means, including electronic mail, instant messaging, social media, text message, or virtual meeting platform[.]" A quorum of a public body that discusses official business of that body via electronic means is conducting an official meeting for purposes of the open meetings laws. Electronic communications made solely for scheduling purposes do not fall within the definition of an official meeting.

WHAT RECORDS MUST BE AVAILABLE TO THE PUBLIC IN CONJUNCTION WITH PUBLIC MEETINGS?

SDCL 1-25-1.4 requires state boards, commissions, or departments to make public meeting materials available on http:// boardsandcommissions.sd.gov. SDCL 1-27-1.16 requires that any other public body must post meeting materials on the public body's website or make those materials available to the public at least twenty-four hours prior to the hearing or when made available to the members of the public body, whichever is later. Finally, SDCL 1-27-1.17 requires that draft minutes of public meetings must be made available to the public at the principal place of business for the public body within 10 business days after the meeting (or made available on the website for the public body within five business days).

These laws are in addition to any specific requirements for public bodies (i.e., publication requirements in state laws pertaining to cities, counties, or school districts). Enforcement of public records laws contained in SDCL Ch. 1-27 are handled by separate procedures found in SDCL 1-27-35, et. seq. rather than the open meeting procedures described above. Violations of SDCL 1-27-1.16 and 1-27-1.17 are also Class 2 misdemeanors.

WHAT REQUIREN Section 7 Item a. APPLY TO TASK FORCES, COMMITTEES AND WORKING GROUPS?

Task forces and committees that exercise "sovereign power," and are created by statute, ordinance, or proclamation are required to comply with the open meetings laws. SDCL 1-25-12(1). Task forces, committees, and working groups that are not created by statute, ordinance, or proclamation, or are advisory only, may not be subject to the open meetings laws, but are encouraged to comply to the extent possible when public matters are discussed. Ultimately, if such advisory task forces, committees and working groups present any reports or recommendations to public bodies, the public bodies must wait until the next meeting (or later) before taking final action on the recommendations. SDCL 1-27-1.18.

ARE PUBLIC BODIES REQUIRED TO REVIEW THE OPEN MEETINGS LAWS?

Public bodies must annually review an explanation of the open meetings laws provided by the Attorney General, along with any other material pertaining to the open meetings laws made available by the Attorney General. SDCL 1-25-13. Each public body must report in its minutes that the annual review of the open meetings laws was completed.

PERTINENT S.D. OPEN MEETINGS STATUTES

(other specific provisions may apply depending on the public body involved)

1-25-1. OPEN MEETINGS. An official meeting of a public body is open to the public unless a specific law is cited by the public body to close the official meeting to the public.

It is not an official meeting of one public body if its members provide information or attend the official meeting of another public body for which the notice requirements of § 1-25-1.1 or 1-25-1.3 have been met. It is not an official meeting of a public body if its members attend a press conference called by a representative of the public body.

For any event hosted by a nongovernmental entity to which a quorum of the public body is invited and public policy may be discussed, but the public body does not control the agenda, the public body may post a public notice of a quorum, in lieu of an agenda. The notice of a quorum must meet the posting requirements of § 1-25-1.1 or 1-25-1.3 and must contain, at a minimum, the date, time, and location of the event.

The public body shall reserve at every official meeting a period for public comment, limited at the public body's discretion as to the time allowed for each topic and the total time allowed for public comment, but not so limited as to provide for no public comment.

Public comment is not required at an official meeting held solely for the purpose of meeting in executive session, an inauguration, presentation of an annual report to the public body, or swearing in of a newly elected official, regardless of whether the activity takes place at the time and place usually reserved for an official meeting.

If a quorum of township supervisors, road district trustees, or trustees for a municipality of the third class meets solely for purposes of implementing previously publicly adopted policy; carrying out ministerial functions of that township, district, or municipality; or undertaking a factual investigation of conditions related to public safety; the meeting is not subject to the provisions of this chapter.

A violation of this section is a Class 2 misdemeanor.

1-25-1.1. PUBLIC NOTICE OF POLITICAL SUBDIVISIONS. Each political subdivision shall provide public notice, with proposed agenda, that is visible, readable, and accessible for at least an entire, continuous twenty-four hours immediately preceding any official meeting, by posting a copy of the notice, visible to the public, at the principal office of the political subdivision holding the meeting. The proposed agenda shall include the date, time, and location of the meeting. The notice shall also be posted on the political subdivision's website upon dissemination of the notice, if a website exists. For any special or rescheduled meeting, the information in the notice shall be delivered in person, by mail, by email, or by

telephone, to members of the local news media who have requested notice. For any special or rescheduled meeting, each political subdivision shall also comply with the public notice provisions of this section for a regular meeting to the extent that circumstances permit. A violation of this section is a Class 2 misdemeanor.

1-25-1.3. PUBLIC NOTICE OF STATE. The state shall provide public notice of a meeting by posting a copy of the proposed agenda at the principal office of the board, commission, or department holding the meeting. The proposed agenda shall include the date, time, and location of the meeting, and be visible, readable, and accessible to the public. The agenda shall be posted at least seventy-two hours before the meeting is scheduled to start according to the agenda. The seventy-two hours does not include Saturday, Sunday, or legal holidays. The notice shall also be posted on a state website, designated by the commissioner of the Bureau of Finance and Management. For any special or rescheduled meeting, the information in the notice shall be delivered in person, by mail, by email, or by telephone, to members of the local news media who have requested notice. For any special or rescheduled meeting, the state shall also comply with the public notice provisions of this section for a regular meeting to the extent that circumstances permit. A violation of this section is a Class 2 misdemeanor.

1-25-1.5. TELECONFERENCE MEETING. Any official meeting may be conducted by teleconference. A teleconference may be used to conduct a hearing or take final disposition regarding an administrative rule pursuant to § 1-26-4. A member is deemed present if the member answers present to the roll call conducted by teleconference for the purpose of determining a quorum. Each vote at an official meeting held by teleconference may be taken by voice vote. If any member votes in the negative, the vote shall proceed to a roll call vote.

1-25-1.6. TELECONFERENCE PARTICIPATION.

official meeting conducted teleconference, there shall be provided one or more places at which the public may listen to and participate in the teleconference meeting. For any official meeting held by teleconference, that has less than a quorum of the members of the public body participating in the meeting who are present at the location open to the public, arrangements shall be provided for the public to listen to the meeting via telephone or internet. The requirement to provide one or more places for the public to listen to the teleconference does not apply to official meetings closed to the public pursuant to specific law.

- 1-25-2. EXECUTIVE SESSION. Executive or closed meetings may be held for the sole purposes of:
 - (1) Discussing the qualifications, competence, performance, character or fitness of any public officer or employee or prospective public officer or employee. The term, employee, does not include any independent contractor;
 - (2) Discussing the expulsion, suspension, discipline, assignment of or the educational program of a student or the eligibility of a student to participate in interscholastic activities provided by the South Dakota High School Activities Association;
 - (3) Consulting with legal counsel or reviewing communications from legal counsel about proposed or pending litigation or contractual matters;
 - (4) Preparing for contract negotiations or negotiating with employees or employee representatives;
 - (5) Discussing marketing or pricing strategies by a board or commission of a business owned by the state or any of its political subdivisions, when public discussion may be harmful to the competitive position of the business; or
 - (6) Discussing information pertaining to the protection of public or private property and any person on or within public or private property specific to:
 - (a) Any vulnerability assessment or response plan intended to prevent or mitigate criminal
 - (b) Emergency management or response;
 - (c) Public safety information that would create a substantial likelihood of endangering public safety or property, if disclosed;
 - Cyber (d) security plans, computer, communications network schema, passwords, or user identification names;
 - (e) Guard schedules;
 - (f) Lock combinations;
 - Any blueprint, building plan, infrastructure record regarding any building or facility that would expose or create vulnerability through disclosure of the location, configuration, or security of critical systems of the building or facility; and
 - (h) Any emergency or disaster response plans or protocols, safety or security audits or reviews, or lists of emergency or disaster response personnel or material; any location or listing of weapons or ammunition; nuclear, chemical, or biological agents; or other military or law enforcement equipment or personnel.

However, any official action concerning the matters pursuant to this section shall be made at an open official meeting. An executive or closed meeting must be held only upon a majority vote of the members of the public body present and voting, and discussion during the closed meeting is restricted to the purpose spe motion. Nothing in § 1-25-1 or this section prevents an executive or closed meeting if the federal or state Constitution or the federal or state statutes require or permit it. A violation of this section is a class 2 misdemeanor.

- 1-25-6. DUTY OF STATE'S ATTORNEY. complaint alleging a violation of chapter 1-25 is made pursuant to § 23A-2-1, the state's attorney shall take one of the following actions:
 - (1) Prosecute the case pursuant to Title 23A;
- (2) Determine that there is no merit to prosecuting the case. Upon doing so, the state's attorney shall send a copy of the complaint and any investigation file to the attorney general. The attorney general shall use the information for statistical purposes and may publish abstracts of such information, including the name of the government body involved for purposes of public education; or
- (3) Send the complaint and any investigation file to the South Dakota Open Meetings Commission for further action.
- DUTY OF STATE'S ATTORNEY 1-25-6.1. (COUNTY COMMISSION ISSUES). If a complaint alleges a violation of this chapter by a board of county commissioners, the state's attorney shall take one of the following actions:
 - (1) Prosecute the case pursuant to Title 23A;
- (2) Determine that there is no merit to prosecuting the case. The attorney general shall use the information for statistical purposes and may publish abstracts of the information as provided by § 1-25-6;
- (3) Send the complaint and any investigation file to the South Dakota Open Meetings Commission for further action; or
- (4) Refer the complaint to another state's attorney or to the attorney general for action pursuant to § 1-25-6.
- 1-25-7. REFERRAL TO OMC. Upon receiving a referral from a state's attorney or the attorney general, the South Dakota Open Meetings Commission shall examine the complaint and investigatory file submitted by the state's attorney or the attorney general and shall also consider signed written submissions by the persons or entities that are directly involved. Based on the investigatory file submitted by the state's attorney or the attorney general and any written responses, the commission shall issue a written determination on whether the conduct violates this chapter, including a statement of the reasons therefor and findings of fact on each issue and conclusions of law necessary for the proposed decision. The final decision shall be made by a majority of the commission members, with each member's vote set forth in the written decision. The final decision shall be filed with the attorney general and shall be provided to the public entity and or public officer involved, the state's attorney

and any person that has made a written request for such determinations. If the commission finds a violation of this chapter, the commission shall issue a public reprimand to the offending official or governmental entity. However, no violation found by the commission may be subsequently prosecuted by the state's attorney or the attorney general. All findings and public censures of the commission shall be public records pursuant to § 1-27-1. Sections 1-25-6 to 1-25-9, inclusive, are not subject to the provisions of chapter 1-26.

1-25-8. OMC Members. The South Dakota Open Meeting Commission is comprised of five state's attorneys or deputy state's attorneys appointed by the attorney general. Each commissioner serves at the pleasure of the attorney general. The members of the commission shall choose a chair of the commission annually by majority vote.

1-25-12. **DEFINITIONS.** Terms used in the open meetings laws mean:

- (1) "Official meeting," any meeting of a quorum of a public body at which official business or public policy of that public body is discussed or decided by the public body, whether in person or by means of teleconference or electronic means, including electronic mail, instant messaging, social media, text message, or virtual meeting platform, provided the term does not include communications solely to schedule a meeting or confirm attendance availability for a future meeting;
- (2) "Political subdivision," any association, authority, board, municipality, commission, committee, council, county, school district, task force, town, township, or other local governmental entity, which is created by statute, ordinance, or resolution, and is vested with the authority to exercise any sovereign power derived from state law;
- (3) "Public body," any political subdivision or the state;
- (4) "State," each agency, board, commission, or department of the State of South Dakota, not including the Legislature; and
- (5)"Teleconference," exchange an information by any audio, video, or electronic medium, including the internet.

1-25-13. ANNUAL REVIEW OF OPEN MEETING LAWS. Any agency, as defined in § 1-26-1, or political subdivision of this state, that is required to provide public notice of its meetings pursuant to § 1-25-1.1 or 1-25-1.3 must annually review the following, during an official meeting of the agency or subdivision:

- The explanation of the open meeting laws of this state published by the attorney general, pursuant to § 1-11-1; and
- Any other material pertaining to the open meeting laws of this state provided by the attorney general.

The agency or subdivis in the minutes of the official acknowledgement that the review completed.

1-27-1.16. MEETING PACKETS AND MATERIALS.

If a meeting is required to be open to the public pursuant to § 1-25-1 and if any printed material relating to an agenda item of the meeting is prepared or distributed by or at the direction of the governing body or any of its employees and the printed material is distributed before the meeting to all members of the governing body, the material shall either be posted on the governing body's website or made available at the official business office of the governing body at least twenty-four hours prior to the meeting or at the time the material is distributed to the governing body, whichever is later. If the material is not posted to the governing body's website, at least one copy of the printed material shall be available in the meeting room for inspection by any person while the governing body is considering the printed material. However, the provisions of this section do not apply to any printed material or record that is specifically exempt from disclosure under the provisions of this chapter or to any printed material or record regarding the agenda item of an executive or closed meeting held in accordance with § 1-25-2. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to printed material, records, or exhibits involving contested case proceedings held in accordance with the provisions of chapter 1-26.

1-27-1.17. DRAFT MINUTES. The unapproved, draft minutes of any public meeting held pursuant to § 1-25-1 that are required to be kept by law shall be available for inspection by any person within ten business days after the meeting. However, this section does not apply if an audio or video recording of the meeting is available to the public on the governing body's website within five business days after the meeting. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to draft minutes of contested case proceedings held in accordance with the provisions of chapter 1-26.

1-27-1.18. WORKING GROUP REPORTS. Any final recommendations, findings, or reports that result from a meeting of a committee, subcommittee, task force, or other working group which does not meet the definition of a political subdivision or public body pursuant to § 1-25-1, but was appointed by the governing body, shall be reported in open meeting to the governing body which appointed the committee, subcommittee, task force, or other working group. The governing body shall delay taking any official action on the recommendations, findings, or reports until the next meeting of the governing body.