



# Planning and Zoning Commission Regular Meeting Agenda

Wednesday, September 03, 2025 at 4:00 PM

City Hall, 102 Sherman Street, Deadwood, SD 57732

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1. **Call to Order**

2. **Roll Call**

3. **Approval of Minutes**

- [a.](#) Approve the minutes of the August 20, 2025, Planning and Zoning Commission Meeting.

4. **Sign Review Commission**

5. **Planning and Zoning Commission**

- [a.](#) Petition for Deannexation of Territory for land legally described as Buena Vista Tract, being a portion of M.S. 343, M.S. 681, M.S. 685, 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.

- [b.](#) Consideration of use for an IV Hydration Therapy business located at 604 Main Street legally described as Lots 26 and 26A being a portion of Block 15, O.T., City of Deadwood, located in the SW 1/4 of Section 23, T5N, R3E, B.H.M. Lawrence County, South Dakota.

Actions:

1. Provide opinion of appropriate land use designation
2. Provide opinion of necessitation to amend ordinance

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

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

7. **Items from Staff**

8. **Adjournment**



# Planning and Zoning Commission Regular Meeting Minutes

Wednesday, August 20, 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, August 20, 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 (Secretary) Dave Bruce

Commissioner Ken Owens

Commissioner Jim Williams

ABSENT

Commissioner (Vice-Chair) Josh Keehn

City Commissioner Blake Joseph

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 July 2, 2025, Planning and Zoning Commission Meeting.

***It was moved by Commissioner Owens and seconded by Commissioner Williams to approve the minutes from the July 2, 2025, Planning and Zoning Commission Meeting. Voting yea: Martinisko, Bruce, Owens, Williams.***

## 4. Sign Review Commission

- a. Application for Sign Permit - 50 Tatanka Drive - RCS Construction. Applicant is requesting permission to install a new freestanding sign. Proposed sign and location are compliant with sign ordinance.

Actions:

1. Approve/deny Application for Sign Permit as submitted

Mr. Mohr introduced Application for Sign Permit - 50 Tatanka Drive - RCS Construction. The sign is for the Lawrence County Public Safety and Services Center. The sign will be located near the entrance of the property.

***It was moved by Commissioner Bruce and seconded by Commissioner Owens to approve Application for Sign Permit - 50 Tatanka Drive - RCS Construction. Voting yea: Martinisko, Bruce, Owens, Williams.***

- b. Application for Sign Permit - 666 Main Street - Cem Iskender (Deadwood Rustic). Applicant is requesting permission to install a projecting sign. Proposed sign and location are compliant with sign ordinance.

Actions:

1. Approve/deny Application for Sign Permit as submitted

Mr. Mohr discussed Application for Sign Permit - 666 Main Street - Cem Iskender (Deadwood Rustic). The proposed sign will display the new business name.

***It was moved by Commissioner Williams and seconded by Commissioner Owens to approve Application for Sign Permit - 666 Main Street - Cem Iskender (Deadwood Rustic). Voting yea: Martinisko, Bruce, Owens, Williams.***

## **5. Planning and Zoning Commission**

- a. Annual Review - Conditional Use Permit for Bed and Breakfast Establishment – 7 Burlington Street – Burlington B&B, legally described as Lots 3 and 4 of Peck's Garden subdivision of part of Probate Lots 138 and 327, Deadwood City, Lawrence County, SD, according to the recorded plat thereof.

Action Required:

1. Public Hearing
2. Approval/Denial of continued use by Planning and Zoning Commission

Mr. Kuchenbecker discussed Annual Review - Conditional Use Permit for Bed and Breakfast Establishment – 7 Burlington Street – Burlington B&B. It is recommended by staff to approve the continued use of the property as a Bed and Breakfast Establishment with nine (9) conditions.

***It was moved by Commissioner Owens and seconded Commissioner Williams to approve Annual Review - Conditional Use Permit for Bed and Breakfast Establishment – 7 Burlington Street – Burlington B&B with nine (9) conditions. Voting yea: Martinisko, Bruce, Owens, Williams.***

- b. Annual Review - Conditional Use Permit for Specialty Resort – 20577 Hwy 85 – Can Am 85 VRBO-RV, legally described as Lot 34 in Block 15, being a part of Mineral Lot 38, and also known as Lot A in Lot H2 of H.E.S. No. 613 in the NE 1/4 of Section 11, T5N, R3E, BHM, Lawrence County, South Dakota

And

Lot C in H.E.S. No. 613 in the NE 1/4 of Section 11, T5N, R3E, BHM, City of Deadwood, Lawrence County, South Dakota.

Action Required:

1. Public Hearing

## 2. Approval/Denial of continued use by Planning and Zoning Commission

Mr. Kuchenbecker introduced Annual Review - Conditional Use Permit for Specialty Resort – 20577 Hwy 85 – Can Am 85 VRBO-RV.

Property owner, Bradley Kooiker, was introduced to the Commission and inquired about the use of fire pits at his property. Mr. Mohr and Mr. Kuchenbecker explained a burn permit is required for solid fuel burning, but not for propane. Burn permits are no longer being issued by the Fire Department to Vacation Home Establishments or Specialty Resorts due to safety concerns.

Staff recommend continuation of the property as a Specialty Resort with eight (8) conditions.

***It was moved by Commissioner Bruce and seconded by Commissioner Owens to approve Annual Review - Conditional Use Permit for Specialty Resort – 20577 Hwy 85 – Can Am 85 VRBO-RV with eight (8) conditions. Voting yea: Martinisko, Bruce, Owens, Williams.***

- c. Annual Review - Conditional Use Permit for Vacation Home Establishment – 64 Cliff Street – Owson Properties LLC, legally described as Lot X2 of Riverside Addition City of Deadwood, Lawrence County, South Dakota, formerly Lot X of Riverside Addition located in the NE 1/4 of Section 27, T5N, R3E, B.H.M.

Action Required:

1. Public Hearing
2. Approval/Denial of continued use by Planning and Zoning Commission

Mr. Kuchenbecker discussed Annual Review - Conditional Use Permit for Vacation Home Establishment – 64 Cliff Street – Owson Properties LLC and advised that staff recommend the continued use of the property as a Vacation Home Establishment with nine (9) conditions.

***It was moved by Commissioner Williams and seconded by Commissioner Owens to approve Annual Review - Conditional Use Permit for Vacation Home Establishment – 64 Cliff Street – Owson Properties LLC with nine (9) conditions. Voting yea: Martinisko, Bruce, Owens, Williams.***

- d. Annual Review - Conditional Use Permit for Vacation Home Establishment – 36 Water Street – Deadwood Rentals - Creekside, legally described as Tract A, an 8' platted alley and a portion of Lot R-1 of the City of Deadwood railroad property all located in the Hillsdale Addition to the City of Deadwood, in the NW 1/4 of Section 26, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota.

And

Tract B-1, McGovern Hill Addition of the City of Deadwood, located in the NW 1/4 NW 1/4 of Section 26 T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota.

Action Required:

1. Public Hearing

## 2. Approval/Denial of continued use by Planning and Zoning Commission

Mr. Kuchenbecker introduced Annual Review - Conditional Use Permit for Vacation Home Establishment – 36 Water Street – Deadwood Rentals - Creekside and stated staff recommend approval to continue use of the property as a Vacation Home Establishment with nine (9) conditions.

***It was moved by Commissioner Owens and seconded by Commissioner Bruce to approve Annual Review - Conditional Use Permit for Vacation Home Establishment – 36 Water Street – Deadwood Rentals - Creekside with nine (9) conditions. Voting yea: Martinisko, Bruce, Owens, Williams.***

- e. Annual Review - Conditional Use Permit for Vacation Home Establishment – 819 Main Street – Deadwood Rentals - Main, legally described as Lot 12 in Block A of Sunnyside Addition to the City of Deadwood as set out in Plat Book 3 Page 251, Lawrence County, South Dakota, except that part deeded to the State of South Dakota for highway purposes as set out in Book 372 Page 58 and Page 168.

And

Tract A-1 in Block A, a replat of Tracts "A" and "B" of the subdivision of Lot 13, Block A of Sunnyside Addition, located in the NW 1/4 NE 1/4 of Section 27, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota, according to Plat filed in Document No. 2001-4003.

Action Required:

1. Public Hearing
2. Approval/Denial of continued use by Planning and Zoning Commission

Mr. Kuchenbecker discussed Annual Review - Conditional Use Permit for Vacation Home Establishment – 819 Main Street – Deadwood Rentals - Main and stated staff recommend continued use of the property as a Vacation Home Establishment with nine (9) conditions.

***It was moved by Commissioner Bruce and seconded by Commissioner Williams to approve Annual Review - Conditional Use Permit for Vacation Home Establishment – 819 Main Street – Deadwood Rentals - Main with nine (9) conditions. Voting yea: Martinisko, Bruce, Owens, Williams.***

- f. Application for Conditional Use Permit - 138 Sherman Street - Laundromat (Deadwood Laundry Co.) legally described as Lot Twenty-Two (22) in Block Forty (40), Original Town of the City of Deadwood, Lawrence County, South Dakota, according to the P.L. Rogers Map of said City of Deadwood.

Actions:

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

Mr. Kuchenbecker introduced Application for Conditional Use Permit - 138 Sherman Street - Laundromat (Deadwood Laundry Co.) and reviewed the Staff Report.

Commissioner Owens inquired about hours of operation. Business owner, Trinity Conrad introduced herself to the Commission and responded hours being considered for operation are 6 a.m. to 10 p.m.

Commissioner Bruce asked about parking. Ms. Conrad stated there are two (2) parking spots available with additional parking in the rear.

Commissioner Martinisko inquired about entry into the building. Ms. Conrad explained the side door would be utilized by employees and customers would enter through the front of the building.

Further discussion occurred about the size of the machines that would be utilized and the need for a Laundromat within the community.

Mr. Kuchenbecker thanked Ms. Conrad for her patience through the process of allowing a Laundromat to operate at the location, which required an ordinance update as well as a Conditional Use Permit.

It is recommended by staff to approve the Conditional Use Permit with five (5) conditions as notated in the Staff Report.

***It was moved by Commissioner Williams and seconded by Commissioner Bruce to approve Application for Conditional Use Permit - 138 Sherman Street - Laundromat (Deadwood Laundry Co.) with five (5) conditions. Voting yea: Martinisko, Bruce, Owens, Williams.***

- g. Application for Conditional Use Permit - 5 Charles Street - Vacation Home Establishment (Ole Grey Barn LLC) legally described as The southwesterly one-half of Lot 2 and all of Lot 3 in Block 69 of the City of Deadwood, Lawrence County, South Dakota, according to P.L. Rogers plat.

Actions:

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

Mr. Kuchenbecker introduced Application for Conditional Use Permit - 5 Charles Street - Vacation Home Establishment (Ole Grey Barn LLC). The property is under new ownership and it is the intention of the owners to work with the Historic Preservation team to update the property.

Ms. Blue-Jones explained public comments were received pertaining to the requested use of the property as a Vacation Home Establishment. Mark Spiers, local resident, expressed concern that the exterior of the property may not be maintained. A second call by local resident John Beck, a member of the Deadwood Volunteer Fire Department, expressed safety concerns related to fire and the possibility of outdated electrical wiring within the home. Mr. Beck also stated his desire to have the property remain a residential property instead of being used for commercial purposes.

Mr. Mohr stated any inspections related to wiring within the home would be handled by the State of South Dakota and not by the City of Deadwood.

Property owner, Darin Buskohl, introduced himself to the Commission and stated he would have a lawn service maintain the front of the property. Mr. Kuchenbecker said

that during an earlier visit to the property, lawn work was being done by the property owners. Ordinances are in place to address the situation if the property is not maintained.

It was recommended by staff to approve the Conditional Use Permit with ten (10) conditions.

***It was moved by Commissioner Owens and seconded by Commissioner Williams to approve Application for Conditional Use Permit - 5 Charles Street - Vacation Home Establishment (Ole Grey Barn LLC) with ten (10) conditions. Voting yea: Martinisko, Bruce, Owens, Williams.***

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

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

## **7. Items from Staff**

### **a. Fassbender 2025 Summer Newsletter**

Mr. Kuchenbecker advised the Commission that two (2) ordinances are being updated and will have first readings on September 2, 2025. The ordinances pertain to displays of merchandise on building exteriors and the use of sandwich boards for the purposes of advertising.

The first reading of an ordinance to allow rideshare services to operate within city limits occurred at the last City Commission meeting.

Retaining walls in the Presidential neighborhood and McGovern Hill are proceeding nicely.

The parking lot below the lodge should be ready to be paved by October 15.

Phase 3 of the Stage Run development continues to see improvements, including water, generator, curb and gutter and final grading of roads. These items should be completed around October 1.

The waterline for the Ridge apartments is being installed and should be completed by October.

The twelve (12) inch redundancy waterline should also be completed by October. Pavement of the parking lots that were dug up should start next week.

## **8. Adjournment**

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

There being no further business, the Planning and Zoning Commission adjourned at 4:39 p.m.

ATTEST:

\_\_\_\_\_  
Chairman, Planning & Zoning Commission

\_\_\_\_\_  
Secretary, Planning & Zoning Commission

***Minutes by Leah Blue-Jones, Zoning Coordinator***

OFFICE OF  
PLANNING, ZONING AND  
HISTORIC  
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108 Sherman Street  
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Kevin Kuchenbecker  
Planning, Zoning and  
Historic Preservation Officer  
Telephone (605) 578-2082  
kevin@cityofdeadwood.com

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## PLANNING AND ZONING COMMISSION STAFF REPORT PETITION FOR DEANNEXATION

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### Staff Report

**Date:** September 3, 2025  
**From:** Kevin Kuchenbecker  
 Planning, Zoning & Historic Preservation Officer  
**To:** Planning and Zoning Commission  
**Re:** Petition for Deannexation of Territory

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**APPLICANT(S):** Boot Hill Estates LLC

**PURPOSE:** Petition for Deannexation of Territory

**LEGAL DESCRIPTION:** 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.

**FILE STATUS:** All legal obligations have been completed by the petitioner.

**ZONE:** PF – Park Forest

### SUMMARY OF REQUEST

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The applicant has submitted a Petition for Deannexation of Territory for the Buena Vista Tract requesting removal from the Deadwood City Limits.

### FACTUAL INFORMATION

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1. The property is currently zoned PF – Park Forest.



## Request for Deannexation of Territory

Buena Vista Tract

September 3, 2025

2. The property sits mostly within the city limits of Deadwood, with a small portion sitting outside of city limits.
3. The property is situated on a large, prominent hill that is viewed when entering the city via Highway 85 from the north.

## STAFF DISCUSSION

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On July 16, 2025, the City received a Petition for Deannexation of Territory, from Boot Hill Estates LLC, a South Dakota limited liability company citing SDCL 9-4-6. The request is to deannex from the Deadwood City Limits (petition and correspondence attached). The state law referenced in the request is as follows:

### **9-4-6. Exclusion of territory from municipality on petition or by vote of governing body.**

Upon a two-thirds vote of the governing body, or on petition in writing signed by not less than three-fourths of the legal voters and by the owners of not less than three-fourths in value of the property in any territory within any municipality being upon the border thereof, the governing body may by resolution exclude the territory from the municipality. However, if all the land sought to be excluded is more than one-half mile from any platted portion of the municipality, the petition must be signed by the owner only.

This petition presents key factors to be considered during the review and possible action by the Deadwood City Commission. Below is an exploration of several crucial aspects that may justify the Commission's decision on this petition, with expanded context on each point based on the specifics of the property and the city's needs.

## CONSIDERATIONS FOR DEANNEXATION

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In reviewing the Petition for Deannexation of Territory 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:

### **1. Location within the Deadwood National Historic District**

*The subject property is located within the Deadwood National Historic Landmark District (Exhibit A). This designation carries importance, as properties in such districts must adhere to preservation standards intended to safeguard their historic, cultural, and architectural integrity. The 1981 city limits of Deadwood were identified as the boundaries of this historic district. Only a small portion of the property requested to be excluded from the territory of Deadwood is outside this historic district. Deannexation could compromise coordinated preservation initiatives aimed at maintaining*

## Request for Deannexation of Territory

Buena Vista Tract

September 3, 2025

*Deadwood's distinctive historical character and value that the district offers to both residents and visitors. The sites' context and setting within the historic district are particularly integral to these efforts.*

*Being situated within the boundaries of the Deadwood National Historic Landmark District, the subject property carries a regulatory weight. The district, recognized at the national level for its cultural and architectural significance, is a key asset to the city's identity and economy. Allowing deannexation of any portion within this district could undermine ongoing preservation efforts, compromise its status, and erode the integrity of the historic designation as a whole. The city has a vested interest in maintaining cohesive oversight of properties within this district to ensure consistent standards for restoration, use, and protection of historic resources.*

*The National Park Service, under the Department of the Interior, would need to be notified and the district would need to be amended. This step is likely to be complex, lengthy and may compromise the balance of the National Historic Landmark District.*

## **2. Inclusion in the Original Town Site of Deadwood (dating back to 1881)**

*The property lies within the Original Town Site which was established with the incorporation of Deadwood in 1881. The Original Town Site forms the original boundaries of Deadwood, contributing to the city's identity and legacy. Deannexing property from this core area could disrupt the historical continuity, diminish the city's heritage, and set an undesirable precedent for future petitions seeking to separate historically relevant parcels.*

*The property inclusion in this foundational footprint ties it to the early development, settlement patterns, and identity of the city itself. The Original Town Site represents more than a geographic boundary; it reflects the legacy, stories, and communal milestones that have shaped Deadwood for generations. Allowing exclusion of this parcel of land from the original boundaries of Deadwood could diminish the continuity and authenticity of the city's heritage, weakening the narrative that both residents and visitors experience. Maintaining the property within city limits supports efforts to preserve the integrity of Deadwood's origins and ensures that decisions affecting its future remain subject to local stewardship.*

## **3. Loss of Property Tax Revenue**

*Deannexation would remove the property from the city's tax rolls, resulting in a direct loss of property tax revenue. This impact could be particularly significant for Deadwood, where every dollar contributes to essential municipal services, infrastructure maintenance, and community programs.*

## Request for Deannexation of Territory

Buena Vista Tract

September 3, 2025

*If this property gets developed to its fullest potential, the property taxes generated through the mill levy could positively impact city revenues. The cumulative financial repercussions, if not in the City Limits, could hinder the city's ability to maintain or improve services for its residents.*

*Properties situated within city boundaries contribute to the municipal tax base, helping to fund essential services such as public safety, infrastructure, maintenance, parks and cultural programming. Should the subject property be removed from city jurisdiction, Deadwood would forfeit its ability to levy property taxes on this land, placing greater strain on remaining taxpayers and potentially jeopardizing the quality or availability of vital public services. This loss of revenue could also impact long-term planning and investment in community assets that benefit all residents.*

#### **4. Deadwood's Need for Housing**

*Deadwood, like many communities, has an ongoing need for additional housing, with particular emphasis on affordability, as expressed in the 2018 Deadwood Comprehensive Plan. Retaining land within the city limits is crucial for the city's ability to guide development and incentivize residential projects that address housing shortages. Excluding this property from the city limits could remove valuable land from the pool of potential sites for new homes, thus impeding efforts to expand affordable housing options for Deadwood's current and future citizens.*

*The ongoing challenge of housing availability – particularly affordable housing – should be carefully considered. Deadwood, like many historic communities, faces a persistent need for more diverse and attainable housing options to support both its current residents and future growth. Retaining properties within city boundaries allows local officials to pursue targeted housing strategies, including incentives and zoning tools, that address affordability gaps and promote a more inclusive community. Allowing deannexation would reduce the city's ability to address these housing needs holistically, potentially worsening shortages or pushing out long-term residents. By maintaining oversight, the city can leverage every available parcel to advance housing priorities and ensure that development aligns with community values and demographic needs while allowing for orderly development and preventing unregulated sprawl.*

*The land in question is within proximity to municipal utilities. Areas near utilities are ideal for managed growth. Keeping the land within municipal boundaries allows the city to expand services more efficiently. In addition, proximity to municipal utilities allows access to services such as fire protection, road maintenance and stormwater management. Deannexing*

*such land could diminish oversight and increase environmental or safety risks.*

## **5. Importance of Zoning in this Area**

*Zoning is an essential tool for managing the character, safety, and orderly development of the city. The area in question is subject to zoning regulations that protect the interests of the broader community. Deannexation would eliminate the city's authority to enforce zoning standards on the property, potentially leading to incompatible development or uses that conflict with the community's vision and planning objectives.*

*Maintaining this property within city limits allows local authorities to exercise oversight over zoning decisions, balancing growth with historic preservation, environmental protection, and the well-being of residents. Deannexation would remove an important check on how the land might be used in the future, potentially opening the door to incompatible or undesirable development. By preserving the city's ability to apply its zoning ordinances, Deadwood can better safeguard the character of its neighborhoods and protect the interests of its citizens.*

## **6. Contribution to Deadwoods' Unique Viewshed**

*The property is part of the historic viewshed that helps define Deadwood's special sense of place. Scenic views play an important role in the city's appeal, attracting tourists and enhancing the quality of life for residents. Removing land from city oversight could threaten the preservation of these vistas, affecting both economic opportunities tied to tourism and the city's intrinsic character.*

*Beyond the practical implications of taxation, housing and zoning, the property in question also contributes significantly to Deadwood's iconic landscape. The 2018 Deadwood Comprehensive Plan refers to the preservation of natural resources such as this as follows, "A common theme regularly expressed by community members throughout the community engagement process was for the historic and natural resources of Deadwood to be preserved, particularly its historic structures and scenic setting in the Black Hills."*

*Its location and natural features play an integral role in shaping the visual experience enjoyed by residents and visitors alike. Preserving these sightlines and the overall aesthetic continuity is vital to maintaining the city's unique character and heritage. Deannexation could open the door to changes that disrupt the established viewshed, undermining the sense of place that distinguishes Deadwood from other communities. Protecting these*

## Request for Deannexation of Territory

Buena Vista Tract

September 3, 2025

*visual assets not only supports tourism and local pride but also honors the collective memory embedded in the city's historic vistas.*

**CONCLUSION**

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In summary, acceptance or denial of the Petition for Deannexation of Territory can be justified on several substantive grounds, including historic preservation, fiscal stability, housing needs, zoning integrity, protection of the community's viewshed, social cohesion, and the need to maintain consistent application of city regulations. Each of these reasons underscores the broader public interest in retaining the property within the City of Deadwood's boundaries.

**ACTION REQUIRED:**

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1. Informational content; recommendation desired to be provided to the City Commission for their consideration.

**LAW OFFICES OF  
BENNETT MAIN GUBBRUD & WILLERT, P.C.**  
A PROFESSIONAL CORPORATION  
618 STATE STREET  
**BELLE FOURCHE, SOUTH DAKOTA 57717**  
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KELLEN B. WILLERT\*\*  
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July 16, 2025

Jessica McKeown  
City of Deadwood Finance Officer  
108 Sherman Street  
Deadwood, SD 57732

**RE: Petition for Deannexation of Territory; Our File No. 7022.001024.**

Dear Ms. McKeown:

My office represents Boot Hill Estates, LLC, in the above-described matter. This letter is intended to file the enclosed Petition for Deannexation of Territory with your office pursuant to SDCL § 9-4-6 and other applicable law.

Please notify my office when this will be on the City Commission's agenda and whether my office needs to arrange for publication of the Notice.

Sincerely,

BENNETT MAIN GUBBRUD & WILLERT,  
P.C.



Kellen B. Willert

KBW/ak

Enc.

cc: client - via email  
Quentin Riggins – via email

# PETITION FOR DEANNEXATION OF TERRITORY

I/We, the undersigned, being three-fourths ( $\frac{3}{4}$ ) of the legal voters and owners of not less than three-fourths ( $\frac{3}{4}$ ) in value in territory within the municipality of Deadwood, South Dakota, and being on the border thereof, do hereby petition to deannex the following described property from the City of Deadwood, South Dakota, to wit:

**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, Township 5 North, Range 3 East, B.H.M., City of Deadwood, Lawrence County, South Dakota, according to Plat Document No. 93-5668.**

Dated this 28<sup>th</sup> day of May, 2025.

**PETITIONER:**

**BOOT HILL ESTATES, LLC**

BY: *Kim Tschetter*  
**Printed Name: KIM TSCHETTER**  
**Its: Member**

**STATE OF SOUTH DAKOTA**                    )  
   )SS.  
**COUNTY OF BUTTE**                         )

On this 28<sup>th</sup> day of May, 2025, before me, the undersigned officer, personally appeared **KIM TSCHETTER**, who acknowledged herself to be a Member of **BOOT HILL ESTATES, LLC**, a **South Dakota limited liability company**, and he/she, as such officer, being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the company by him as such Member.

**IN WITNESS WHEREOF**, I hereunto set my hand and official seal.

(SEAL)



*Joy Norlin*  
 Joy Norlin, Notary Public  
 My Comm. Exps.: 02/01/2029.

OFFICE OF  
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HISTORIC PRESERVATION  
108 Sherman Street  
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Planning, Zoning and  
Historic Preservation Officer  
Telephone (605) 578-2082  
kevin@cityofdeadwood.com

## MEMORANDUM

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**DATE:** September 3, 2025

**TO:** Planning and Zoning Commission

**FROM:** Kevin Kuchenbecker, Historic Preservation Officer & Planning and Zoning Administrator

**RE:** Consideration of Use Within the C1 – Commercial Zoning District

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### STAFF FINDINGS:

Planning and Zoning staff have been notified that an IV Hydration business is interested in operating within the mezzanine of The Nugget, located at 604 Main Street. The property is zoned C1 – Commercial.

The business owner is requesting use with the land use classification of a Wellness Lounge, akin to a Spa and/or Massage center. It is staff's opinion that the appropriate land use classification would be a Medical Clinic. In surrounding municipalities, IV Hydration businesses are typically classified as Medical Clinics for the purposes of land use.

Per City Ordinance 17.32.020, property in the C1 – Commercial zoning district does not allow for use of either a Wellness Lounge or a Medical Clinic. To allow such use(s) within that district would require an update to city ordinance.

Staff are seeking direction from the Planning and Zoning Commission to determine the appropriate designation of land use for the business, as well as guidance to determine if an amendment to city ordinance should be pursued.

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### RECOMMENDED ACTION:

Consider and provide recommendation of appropriate land use categorization and if Section 17.32.020 should be amended.





## SOUTH DAKOTA BOARD OF NURSING

4305 S. Louise Ave., Suite 201 | Sioux Falls, SD 57106-3115

605-362-2760 | <https://doh.sd.gov/boards/nursing/>

### Elective IV Infusion and Medication Therapy Guidelines

The South Dakota Board of Nursing is authorized by the state of South Dakota, pursuant to SDCL 36-9-1.1, to safeguard life, health and the public welfare; and to protect citizens from unauthorized, unqualified and improper application of nursing practices.

The South Dakota Board of Nursing issues opinions as to what constitutes safe nursing practice. As such, an opinion is not a regulation of the Board and does not have the force and effect of law. An opinion is issued as a guideline to licensees who wish to engage in safe nursing practice, and to facilitate the delivery of safe, effective nursing care to the public.

**Approval Date:** November 9, 2022

The following guidelines are intended to promote safe care. Licensed nurses and institutions are encouraged to also refer to other national standards of practice and evidence-based literature to identify additional guidelines or considerations specific to a practice setting or patient population served.

#### **Practice Statement:**

The South Dakota Board of Nursing affirms that it is within the scope of practice of a licensed nurse to administer intravenous (IV) therapy/hydration and medications, including drugs, substances, or additives such as vitamins, minerals, or electrolytes, for medical or wellness reasons, commensurate with each nurse's licensure, scope, educational preparation, and experience, to "implement nursing care through the execution of regimens requested, ordered, or prescribed by an authorized health care provider", pursuant to SDCL 36-9-3, 36-9-4, and ARSD 20:48.

The registered nurse (RN) or licensed practical nurse (LPN) who initiates any form of order, including standing order, protocol, prescription, or regimen, must act within the scope of the Nurse Practice Act (NPA), SDCL chapters 36-9 and ARSD 20:48, and any other applicable local, state, or federal laws.

The NPA does not authorize an LPN or RN to engage in acts that require independent medical judgment, medical diagnosis, or the ordering or prescribing of medications or therapeutic regimens. An LPN or RN must have a medical order to administer medication or IV therapy/hydration, including elective services provided at the request of a client in a non-traditional setting.

*The licensee is personally responsible for the actions that the licensee performs relating to the nursing care furnished to clients and cannot avoid this responsibility by accepting the orders or directions of another person.*

#### **Written Protocol or Standing Order Guidelines:**

Protocols are written instructions or orders for procedures prepared by an authorized medical provider.

- The protocol provides authority and defines a plan of medical/wellness care for use with clients who have not been previously examined or evaluated by an authorized medical provider for that condition.
- The protocol should be developed and designed for a client population with a specific health disorder, set of symptoms, or wellness need.
- The protocol should provide clear instructions on procedures or interventions that the nurse can follow, without using medical judgment, to assure that the procedures are carried out correctly and safely.

Protocols or standing orders at a minimum, should:

1. Be in writing, dated, and signed by the authorized medical provider;
2. Specify which acts require a particular level of training or licensure and under what circumstances they are to be performed;
3. Specify any experience, training, and/or education requirements for those persons who shall perform the procedures;



## SOUTH DAKOTA BOARD OF NURSING

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4. Contain specific health history and assessment data to collect, the contraindications for treatment, and circumstances on when to consult with the medical provider;
5. State specific requirements which are to be followed by persons performing the procedures;
6. Be reviewed annually and updated according to accepted medical practice standards.

### **Healthcare Provider Guidelines:**

#### **A. Authorized Medical Provider Role:**

A legally authorized medical provider, acting within their scope, is responsible to write an order for the administration of intravenous (IV) therapy/hydration and medications, including drugs, substances, or additives such as vitamins, minerals, or electrolytes, for medical or wellness reasons, for the RN or LPN to follow.

The medical provider is expected to:

1. Review the client's medical history and perform an assessment of the client's health status; or
2. Provide specific instructions within a written protocol that defines the review of the medical history and client assessment that must be performed by the nurse.
3. Develop a medical/wellness treatment plan that includes a specific order/prescription for IV and medication therapy.

#### **B. RN Role:**

An RN may perform nursing interventions including the provision of IV therapy and medication administration as ordered by a qualified medical prescriber.

It is not within the RN scope to prescribe, order, or procure drugs or substances for medication administration or IV therapy/hydration.

#### **C. LPN Role:**

An LPN may assist and participate in the performance of IV therapy and medication administration as ordered by a legally authorized medical prescriber in a stable nursing situation under the supervision of an RN, APRN, physician, or other authorized health care provider, who is readily available in person or by electronic communication.

#### **The following tasks may be performed by an LPN:**

- May perform peripheral venipuncture and administration of IV therapy for clients 12 years and older;
- Assemble and maintain equipment for gravity drip infusion and electronic controlling devices;
- Calculate and adjust infusion rates using standard formulas;
- Perform routine tubing set changes;
- Administer standard solutions, such as normal saline, at a defined flow rate, with or without admixtures that have been mixed and labeled by a pharmacist, RN, or physician;
- Administer vitamins, antibiotics, corticosteroids, and H2 antagonists by piggyback route, mixed and labeled by a pharmacist, RN, or physician; excluding the first dose which must be administered by an RN, or other authorized health care provider;
- Perform routine dressing changes;
- Perform routine saline and heparin flushes.

#### **The following tasks may NOT be performed by an LPN:**

- Administer medications by direct IV push or bolus routes.
- Prescribe or order drugs, substances, or IV therapy/hydration.



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### **Practice Setting Guidelines:**

1. Maintain written policies relating to the procedures that will be performed that are consistent with applicable standards of practice and evidence-based practice;
2. Maintain documentation on:
  - a. Client assessments and medical history data;
  - b. Education provided to the client on the prescribed infusion and/or medication therapy;
  - c. Client's Informed consent for procedure(s);
  - d. Specific procedures performed and client response to procedure;
3. Establish a method for initial and continuing evaluation of the competence of healthcare providers;
4. Have in place an emergency management plan that includes when to refer or consult with the authorized medical provider;
5. Have in place infection control measures that are consistent with applicable standards;
6. Follow state or federal requirements for the ordering and procurement of medications, IV solutions, or additives, including vitamins, minerals, or electrolytes. Substances must be obtained from a South Dakota licensed wholesale drug distributor or a South Dakota licensed 503B outsourcing facility; and
7. Follow state or federal requirements for the preparation and administration of medications, IV solutions, or additives, including vitamins, minerals, or electrolytes that meet United States Pharmacopeial (USP) <797> Pharmaceutical Compounding-Sterile Preparations compounding standards.

### **Nursing Corporation:**

Licensed nurses who own a business to provide nursing services and have a nursing corporation registered with the Secretary of State must register the nursing corporation with the SDBON as a professional corporation:

[Nursing Corporation Registration & Certificate of Registration for a Healthcare Professional Corporation.](#)

### **References**

1. Gorski LA, Hadaway L, Hagle ME, et al. *Infusion Therapy Standards of Practice, 8<sup>th</sup> Edition*. Journal of Infusion Nursing. 2021; 44 (suppl 1):S1-S224.
2. National Infusion Center Association. (2019). *Minimum standards for in-office infusion*. Retrieved from: <https://infusioncenter.org/2019-06-19-nica-minimum-standards-for-in-office-infusion/>.
3. North Carolina Board of Nursing (2022). Position Statement: Administration of Intravenous Fluids (IV Hydration), Nutrient Therapies, and Medications for Hydration, Health, and Wellness. Retrieved from <https://www.ncbon.com/myfiles/downloads/position-statements-decision-trees/iv-hydration-clinics.pdf>.
4. South Dakota Board of Nursing. *Scope of Nursing Practice Decision-Making Framework*. Retrieved from: <https://doh.sd.gov/boards/nursing/PDF/ScopeofPractice3.pdf>.
5. United States Pharmacopeial Convention. (2014). USP general chapter <797> Pharmaceutical Compounding-Sterile Preparations.

### **Applicable South Dakota Laws and Rules**

1. [36-9-3. Practice of registered nurse](#)
2. [36-9-4. Practice of licensed practical nurse](#)
3. [36-9A-12. Practice of certified nurse practitioner](#)
4. [34-52. Telehealth utilization by health care professionals](#)
5. [20:48:01. Definitions](#)
6. [20:48:04:01. Scope and standards of nursing practice](#)
7. [20:48:04:06. Intravenous therapy functions which may be performed by licensed practical nurses](#)
8. [20:48:04:07. Intravenous therapy functions which may not be performed by licensed practical nurses](#)

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

August 19, 2025

Doc Holiday IV Therapy and Wellness  
 Attn: Daphne Loup  
 3785 Grand Loop  
 Spearfish, SD 57783

Dear Daphne,

On Friday, August 1, 2025, a Business License Application was submitted to the City of Deadwood requesting a license to operate a Hydration and Wellness Service located at 604 Main Street.

This letter is to inform you that the Finance Office is unable to process the Business License Application. City ordinance does not define Hydration and Wellness Service, nor does it provide for operation of such a facility within C1 – Commercially zoned districts. For this reason, the business cannot lawfully open or continue operations at this time.

Below are alternative options that may allow the Hydration and Wellness Service to operate while complying with city ordinance:

1. Apply for a Temporary Vendors License. This option would allow Doc Holiday IV Therapy and Wellness to operate on a provisional basis, for up to fourteen (14) days at a time. This would allow for short-term operation during events. Please allow up to sixty (60) days for processing.
2. Request consideration to amend city ordinance to formally allow Hydration and Wellness Services to operate within the city, including in C1 – Commercially zoned districts. This process involves a formal request to the city, and participation in public hearings. If successful, Doc Holiday IV Therapy and Wellness could lawfully operate within the parameters outlined in the amended ordinance.

Until a Temporary Vendors License or an amendment to city ordinance is granted, operations of Doc Holiday IV Therapy and Wellness must cease. It is essential to remain in compliance with local regulations to avoid potential penalties or legal complications.

Please don't hesitate to reach out to discuss further. Thank you for your understanding and cooperation.

Sincerely,

Kevin Kuchenbecker

cc: Jessica McKeown, Finance Director  
 Misty Trewhalla, Deputy Finance Officer  
 Quentin Riggins, City Attorney  
 Leah Blue-Jones, Zoning Coordinator  
 Cory Shafer, Chief of Police



## Doc Holiday IV Therapy and Wellness

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### Intro

Offering IV hydration in the center of the action on Main Street Deadwood

**Page** · Medical & health · Health & wellness website · Health/beauty

604 Main St, Deadwood, SD, United States, South Dakota

(605) 641-1390

docholidayiv@gmail.com

instagram.com/doc.holidayiv

**Closed now**

Online booking

Not yet rated (0 Reviews)

### Featured



Doc Holiday IV Therapy and Wellness is in Deadwood.

August 7 at 11:12 AM

Pregame in our massage chairs. The most comfortable seat your cheeks have felt for days.

uoy>.



### Posts

[Filters](#)



Doc Holiday IV Therapy and Wellness

August 24 at 9:46 AM · 🌐

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Happy Kool Deadwood Nites **HISTORIC DEADWOOD** ! We are here to revive at **The Nugget** 604 Main Street! IV HYDRATION will do the trick to get you feeling great! Come see us!







Doc Holiday IV Therapy and Wellness

August 22 at 2:58 PM · 🌐



DOCHOLIDAY.GLOSSGENIUS.COM

**Doc Holiday**



Doc Holiday IV Therapy and Wellness is with Deadwood: Chamber of Commerce and HISTORIC DEADWOOD at HISTORIC DEADWOOD.

August 19 at 5:47 PM · Deadwood · 🌐

Kool Deadwood Nites will be anything but cool this week. Don't let the heat and non-stop action curb the pep in your step. Keep your bobby socks twistin' and shoutin', rehydrate, reboot, or revive with an infusion from Doc Holiday. Call or message today to book a convenient time or stop at 604 Main Street on Saturday or Sunday from 10am - 4pm. Walk-ins welcome. Stay KOOL!







**Doc Holiday IV Therapy and Wellness** is in Deadwood.

August 7 at 11:12 AM · 🌐



Pregame in our massage chairs. The most comfortable seat your cheeks have felt for days.



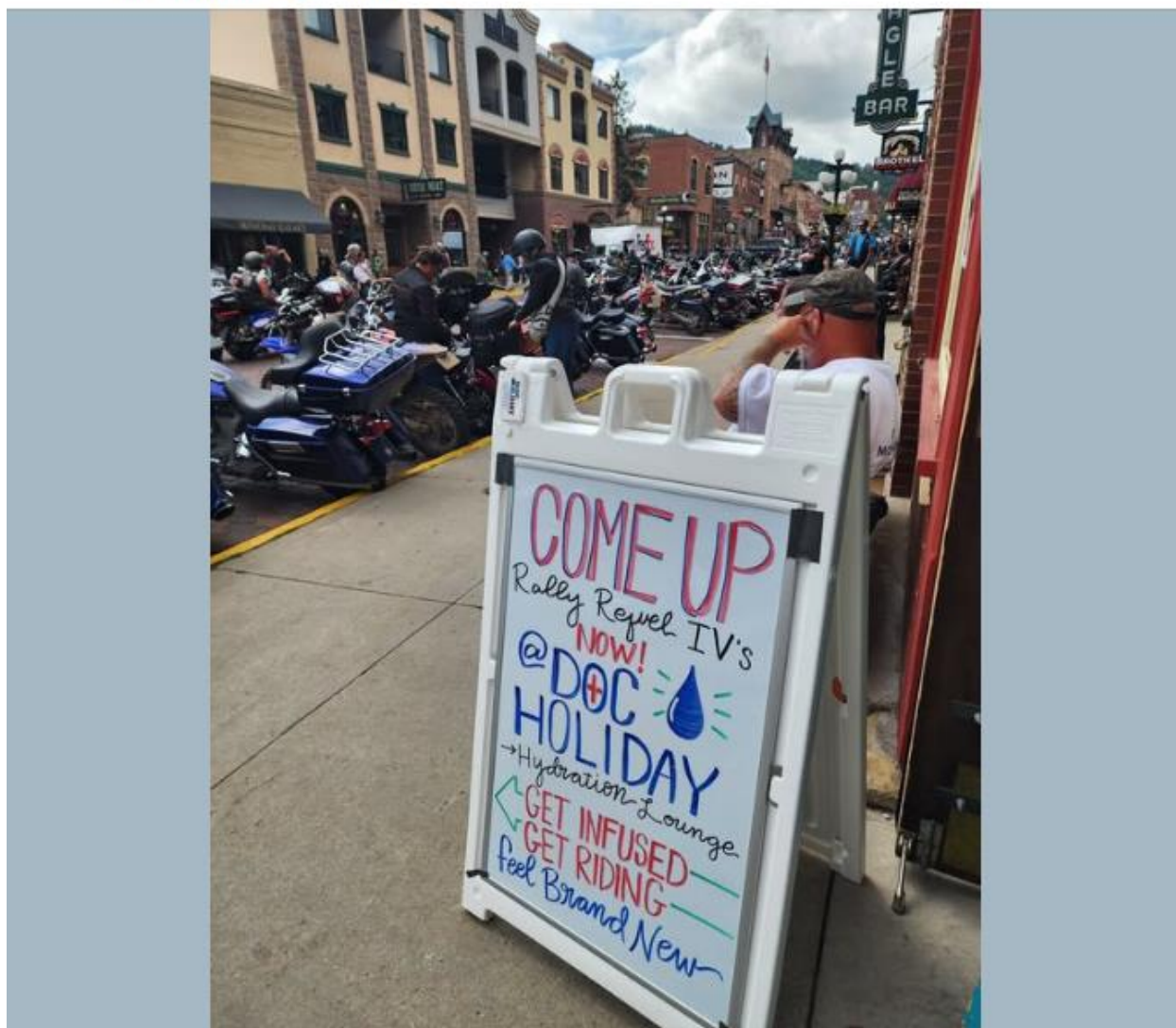


Doc Holiday IV Therapy and Wellness

August 5 at 3:40 PM · 🌐

...

Come down to The Nugget at 604 Main in [HISTORIC DEADWOOD](#) and get yourself hydrated! Fluid IV Hydration by licensed and certified professionals! Whether you rode too hard or partied too hard, we have the remedy. Message us to set an appointment or just come and see us, 10am to 6pm all [Sturgis Motorcycle Rally](#) !





Doc Holiday IV Therapy and Wellness

August 4 at 1:12 PM · 🌐

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Stop at The Nugget for IV Hydration and we'll pick up the tab for a libation after. Tripp makes the best Bloody Mary's in town.







Doc Holiday IV Therapy and Wellness updated their profile picture.

August 4 at 12:58 PM · 🌐

