

**PETITION TO CREATE  
IN THE CITY OF  
BILLINGS MONTANA  
A  
TOURISM BUSINESS IMPROVEMENT DISTRICT**

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**Statutory authority.**

This is a petition to establish in the city of Billings, Montana, a tourism business improvement district (“the district”) pursuant to Resolution No. 2007-\_\_\_ of the City of Billings and, under the provisions of the Business Improvement District Law, as set forth in Montana Code Annotated 2007, 7-12-1101 through 7-12-1144.

**Boundaries.**

The boundaries of the district shall be the corporate limits of the city of Billings as such corporate limits are amended from time to time.

**Amendments to state law.**

The businesses and operation of the district shall be subject to any amendments to the Business Improvement District Law, Montana Code Annotated 2007, 7-12-1101 through 7-12-1144.

**Purpose.**

The purposes for which the assessments collected shall be used are the statutory purposes set forth in Business Improvement District Law, Montana Code Annotated 2007, 7-12-1101 through 7-12-1144, for one or more of the following purposes:

- A. The funding of all uses and projects for tourism promotion within Billings as specified in the Billings Tourism Business Improvement District budget.
- B. The marketing of convention and trade shows that benefit local tourism and lodging businesses in Billings; and
- C. The marketing of Billings to the travel industry in order to benefit local tourism and the lodging businesses located within the Billings Tourism Business Improvement District; and

- D. The marketing of Billings to recruit major sporting events in order to promote local tourism and to benefit the lodging businesses within the Billings Tourism Business Improvement District.

**Definitions.**

Except where the context shall otherwise require, the definitions given in this section govern the construction of this document:

- A. "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, motel, or other similar structure or portion thereof.
- B. "Occupancy" means the use or possession, or the right to the use or possession, of any room or rooms, or any portion thereof, in any hotel for dwelling, lodging or sleeping purposes.
- C. "Person" means any individual, firm, partnership, association, social club, fraternal organization, or any other group or combination acting as a unit.
- D. "Transient" means any person who exercises occupancy or is entitled to occupancy or other agreement for a period of 30 consecutive calendar days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of 30 days has expired, unless there is an agreement in writing between a hotel and the occupant providing for a longer period of occupancy.

**Amount of assessments.**

All hotels with 6 or more rooms within the boundaries of the district shall be subject to an assessment of seventy five cents (\$0.75) per occupied room night.

**Exemptions.**

Stays by persons who are otherwise exempt from paying a transient occupancy tax shall be exempt from the assessment.

**Reporting and remitting assessment.**

Each hotel shall, on or before the last day of the month following the close of each calendar quarter, make a return to the Billings City Treasurer, of the total number of rooms occupied during the reporting period, and the amount of assessment collected from all occupied rooms. At the time the return is filed, which shall be simultaneous with the bed tax funds, the full amount of the assessment collected shall be remitted to the Billings City Treasurer. Returns and payments are due immediately upon cessation of business for any reason. All assessments collected by hotels shall be held in trust for the account of the city of Billings until payment thereof is made to the Billings City Treasurer.

**Records to be kept.**

It shall be the duty of every hotel liable for the collection and payment of any assessment imposed, to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such assessment as may have been liable for the collection of and payment to the Billings City Treasurer.

**Delinquent payment – Penalties and interest.**

- A. Any hotel that fails to file a required return, statement, or other report with the Billings City Treasurer by the due date, including any extension of time, of the return or report must be assessed a late filing penalty of \$50 or the amount of the TBID fees due, whichever is less.
- B. Any hotel that fails to pay the TBID fees when due must be assessed a late payment penalty of 1.2% a month, or a fraction of a month, on the unpaid TBID fees. The penalty may not exceed 12% of the amount due. The penalty accrues on the unpaid TBID fees from the original date of the return regardless of whether the taxpayer has received an extension of time for filing a return.

**Failure to collect and report – Determination of assessment by finance director.**

- A. If any hotel fails or refuses to collect the assessment and to make, within the time provided, any report and remittance of the assessment or any portion thereof required, the City of Billings finance director shall proceed in such manner as deemed best to obtain facts and information on which to base the estimate of the assessment due. As soon as the finance director shall procure such facts and information as is able to be obtained upon which to base the assessment imposed and payable by any hotel who has failed or refused to collect the same and to make such report and remittance, the finance director shall proceed to determine and assess against such business lodging the assessment and penalties.
- B. In case such determination is made, the finance director shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the business lodging so assessed at its last known place of address. Such business lodging may, within 10 days after the serving or mailing of such notice, make application in writing to the finance director for a hearing on the amount assessed.
- C. If application by the hotel for a hearing is not made within the time prescribed, the assessment, and penalties, if any, determined by the finance director, shall become final and conclusive and immediately due and payable. If such application is made, the finance director shall give not less than five days' written notice to the hotel, to show cause at a time and place fixed in the notice why the amount specified therein should not be fixed for such assessment and penalties.
- D. At such hearing, the hotel may appear and offer evidence why such specified assessment and penalties should not be so fixed. After such hearing, the finance director shall determine the proper assessment to be remitted, and shall thereafter give written notice to the hotel in the manner prescribed herein of such determination and the amount of such assessment and penalties. The amount determined to be due shall be payable after 15 days unless an appeal is taken.

**Actions to collect.**

Any assessment required to be paid by the hotel shall be deemed a debt owed by the hotel to the city of Billings. Any such assessment collected by a hotel, which has not been paid to the city, shall be deemed a debt owed by the hotel to the city. Any hotel owing money to the city shall be liable to an action brought in the name of the City of Billings for the recovery of such amount.

**Refunds.**

- A. Whenever the amount of any assessment or penalty has been overpaid or paid more than once, or has been erroneously or illegally collected or received by the city, it may be refunded as provided in subsections B and C of this section, provided a claim in writing, stating under penalty of perjury the specific grounds upon which the claim is founded.
- B. A hotel may claim a refund, or take as credit against assessments collected but unremitted, the amount overpaid, paid more than once, or erroneously or illegally collected or received when it is established in a manner prescribed by the finance director.
- C. No refund shall be paid under the provisions of this section unless the claimant establishes its right thereto by written records showing entitlement thereto.

**Appeal procedure.**

Any hotel aggrieved by the decision of the finance director with respect to the amount of such assessment, interest and penalties, if any, may appeal to the Billings City Council by filing a notice of appeal with the city clerk within 15 days of the serving or mailing of the determination of assessment due. The Council shall fix a time and place of hearing such appeal, and the city clerk shall give notice in writing to such hotel at its last known place of address. The findings of the Council shall be final and conclusive, and shall be served upon the appellant in the manner prescribed above for notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

**Effective date.**

This agreement shall be effective 30 days from and after the date of the passage of the ordinance creating the Tourism Business Improvement District of Billings, Montana; except that the assessment imposed shall become operative and be imposed beginning October 1 2007, and shall not apply prior to that date.

**Termination.**

Upon receipt of a petition signed by the owners of more than 50% of the area of the property included in the district, the governing body shall dis-establish the district at the end of the fiscal year of the district.