CHAPTER 11-5
BUSINESS IMPROVEMENT DISTRICT NUMBER ONE

11-5-1 CREATION

There is hereby created pursuant to Chapter 9-55 Business Improvement District #1 of the Municipality of Brandon, South Dakota.

Legislative History:
Ordinance No. 370, 7/19/05,

Authority:
SDCL §§ 34-31-1, 34-31-2, 34-31-3.

11-5-2 DISTRICT BOUNDARIES

Business Improvement District #1 (B.I.D.) Shall have the following boundaries:

A. Lot A1, Burkman's Tract 1A, NE 1/4, SE 1/4, 27-102-48; Tract 2A (Except E180', S275'), Burkman's Tracts, NE 1/4, SE 1/4, 27-102-48 and Lot R3, Burkman Industrial Park, 27-105-48. These parcels are identified as Minnehaha County Parcel Number 64753, 14001 and 61364.

(These parcels are generally described as the lot where the Holiday Inn is located and the undeveloped lots to the west and south. The district is generally bounded by Splitrock Boulevard to the east, 9th Avenue North to the west, Interstate-90 to the north, and Ash Street to the south, excluding Tailgators and The Coffee Cup Fuel Stop.)

B. All motels or hotels at the time of this ordinance are automatically in the B.I.D. All motels or hotels which are built, constructed or established after the enactment of this Ordinance are also automatically in the B.I.D. All motels or hotels which meet the criteria at the time of the enactment of this Ordinance but subsequently, for whatever reason, fail to meet the criteria herein still automatically remain in the B. I. D. All motels or hotels which at any time do not meet the criteria enumerated herein but voluntarily petition to be a part of the B.I.D. are permanently in the B.I.D. and cannot voluntarily remove themselves fro the B.I.D., just as any lodging establishments which are automatically in the B.I.D. cannot remove themselves voluntarily.

Legislative History:
Ordinance No. 370, 7/19/05,

Authority:
SDCL §§ 34-31-1, 34-31-2, 34-31-3.

11-5-3 RESOLUTION OF INTENT

Resolution #09-05 of intent for the creation of this district was adopted on the 18th day of April, 2005.

Legislative History:
Ordinance No. 370, 7/19/05,

Authority:
SDCL §§ 34-31-1, 34-31-2, 34-31-3.

11-5-4 PUBLIC HEARING

A public hearing on the creation of this district was held on June 6, 2005 at 7:30 p.m. in City Hall to consider the creation of a business improvement district.

Legislative History:
Ordinance No. 370, 7/19/05,

Authority:
SDCL §§ 34-31-1, 34-31-2, 34-31-3.

11-5-5 PURPOSE

The purpose of Business Improvement District #1 is to retire the debt created by the cost of construction of a 8,700 square foot public conference center facility located next to the new Holiday Inn Express and Suites that will be located on property described in Section 1, Paragraph A.

Legislative History:
Ordinance No. 370, 7/19/05,

Authority:
SDCL §§ 34-31-1, 34-31-2, 34-31-3.

11-5-6 ACTIVITIES PREFORMED

The public improvements, facilities and activities to be performed by this district are as follows:

A. To construct a 8,700 square foot public conference center facility.
B. To lease said facility.
C. To facilitate the collection of an occupation tax.

Legislative History:
Ordinance No. 370, 7/19/05,

Authority:
SDCL §§ 34-31-1, 34-31-2, 34-31-3.

11-5-7 TAX

The business and professions within Business Improvement District #1 will be subject to an occupation tax as established in SDCL 9-55-2. The initial rate of the occupation tax shall be $2.00 per night per occupied room. The occupation tax shall be fair, equitable, and uniform as to class. Motel rooms not used by customers shall be excluded from computation of the tax. This tax rate shall be subject to establishment and adjustment by an ordinance of the Brandon City Council.

Legislative History:
Ordinance No. 370, 7/19/05,

Authority:
SDCL §§ 34-31-1, 34-31-2. 34-31-3

11-5-8 COMPUTE TAX

The City Finance Officer is authorized and is directed to determine and compute the tax in accordance herewith.

Legislative History:
Ordinance No. 370, 7/19/05,

Authority:
SDCL §§ 34-31-1, 34-31-2, 34-31-3.

11-5-9 COLLECTION

The occupation tax assessed pursuant to the terms of this act shall be remitted by the 10th day of each month to the Brandon City Finance Office with the remittance to be for the previous calendar month's tax collections.

Legislative History:
Ordinance No. 370, 7/19/05,

Authority:
SDCL §§ 34-31-1, 34-31-2, 34-31-3.

11-5-10 DELINQUENT PAYMENTS

The City Finance Officer shall be entitled to audit the books, ledgers, or franchise reports of any hotel or motel subject to the terms of this act, including therewith the right to inspect the daily reports of such hotels and motels so as to insure that the occupation tax assessed by this act is being properly remitted to the City. The City Finance Officer shall be entitled to seek injunctive relief against any motel or hotel which does not remit the tax moneys when due, which relief shall be in the form of an action requiring the offending hotel or motel owner to allow entry upon their property and access to their records, computers, or books so as to verify that the motel or hotel is remitting all moneys it collects pursuant to this ordinance and South Dakota statute.

Legislative History:
Ordinance No. 370, 7/19/05,

Authority:
SDCL §§ 34-31-1, 34-31-2, 34-31-3.

11-5-11 LATE PAYMENT

Any motel or hotel required to collect the occupation tax which does not pay the tax when due shall be assessed an interest penalty of 1% per month of the unpaid tax. In addition the failure to pay said tax shall become a lien against the real property upon which the motel or hotel is located. In those situations where the retailer fails to remit the tax collected for the B.I.D. the City Finance Officer shall be entitled to take action under Sections 10, 11, 12 and 13, and report the unpaid assessment to the Minnehaha County Treasurer.

Legislative History:
Ordinance No. 370, 7/19/05,

Authority:
SDCL §§ 34-31-1, 34-31-2, 34-31-3.

11-5-12 OTHER STATUES

Nothing within the body of this act shall be construed as limiting any other rights which the City of Brandon has, or may pursue in seeking collection of moneys received but not paid to the City under the terms of this ordinance. In the event that this tax becomes subject to supervision by the State of South Dakota through the State's Department of Revenue, any right which Brandon has herein shall be deemed cumulative to any powers which inure to the benefit of the State.

Legislative History:
Ordinance No. 370, 7/19/05,

Authority:
SDCL §§ 34-31-1, 34-31-2, 34-31-3.

11-5-13 PENALTY

The failure of any business owner, occupier, resident, or tenant to remit tax collections due under the terms of this ordinance shall subject that person or entity to criminal penalty as authorized by State law or municipal ordinance, including the right of the City of Brandon to charge any violator with a misdemeanor or petty offense as the situation may warrant. In the event of any civil or criminal action being filed seeking collection of any delinquent assessment, the offending motel or hotel may be assessed attorneys fees and costs incurred by the City in seeking payment under the terms of this act.

Legislative History:
Ordinance No. 370, 7/19/05,

Authority:
SDCL §§ 34-31-1, 34-31-2, 34-31-3.

11-5-14 SAVINGS CLAUSE

Should any section, clause or provision of this ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the section, clause or provision declared to be invalid.

Legislative History:
Ordinance No. 370, 7/19/05,

Authority:
SDCL §§ 34-31-1, 34-31-2, 34-31-3.

11-5-15 EFFECTIVE CLAUSE

This ordinance shall be effective upon passage and publication as provided by law.

Legislative History:
Ordinance No. 370, 7/19/05,

Authority:
SDCL §§ 34-31-1, 34-31-2, 34-31-3.