

2010 Legal and Public Notices

Section 3. Effective Clause.

This ordinance shall be in full force and effect from and after its passage, approval and publication as required by law.

Adopted: January 28, 2013
1st Reading: December 21, 2012
2nd Reading: January 28, 2013
Publication Date: February 2, 2013
Effective Date: February 25, 2013

Nancy Wenande, Mayor

ATTEST:

Ann Clough, Deputy Finance Officer
Published once at the approximate cost of \$20.85.

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PUBLIC MEETING NOTICE

A regular monthly meeting of the Yankton County Planning Commission will be held at 7:00 P.M., Tuesday, February 12, 2013, at the Yankton County Government Center, Commissioners Chambers, 321 West Third St., Yankton, South Dakota.

NOTICE OF PUBLIC

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HEARING

Notice is hereby given that a public hearing will be held before the Yankton County Planning Commission, Yankton County, South Dakota, Tuesday, February 12, 2013, at 7:05 P.M. at the Yankton County Government Center, Commissioners Chambers, 321 West Third St., Yankton, South Dakota.

Said hearing is to consider the following:

Applicant is requesting a Variance of Minimum Yard Requirement from one hundred (100) feet to seventy-one +/- (71.1) feet in front yard and from fifty (50) feet to fifteen (15) feet in rear yard in a Commercial District (C) in Yankton County. Said property is legally described as S166.10', exc W172', S1/2, W1/2, W1/2, NW1/4, S15-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is TBD, Neu Lane, Yankton, SD.

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held before the Yankton County Planning Commission, Yankton County, South

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Dakota, Tuesday, February 12, 2013, at 7:25 P.M. at the Yankton County Government Center, Commissioners Chambers, 321 West Third St., Yankton, South Dakota.

Said hearing is to consider the following:

Applicant is requesting a Conditional Use Permit to construct a self-storage warehouse in a Lakeside Commercial District (LC) in Yankton County. Said property is legally described as Lt 12B, Thon's Addition, SE1/4, NW1/4, S15-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. E911 address is TBD Premier Circle, Yankton, SD.

Patrick Garrity
Zoning Administrator
Yankton County

Published once at the approximate cost of \$26.97.



Secret Service Chief To Step Down

BY ALICIA A. CALDWELL
Associated Press

WASHINGTON — Secret Service Director Mark Sullivan announced his retirement Friday, bringing to a close a turbulent period for the law enforcement agency that included a South American prostitution scandal and a pair of White House gate-crashers.

In nearly seven years as director, Sullivan had to answer serious questions from lawmakers on two occasions about his employees' actions on the job and off.

Last May, in testimony before Congress, Sullivan apologized for the conduct of Secret Service employees caught in a prostitution scandal in Colombia. Thirteen agents and officers were implicated after an agent argued with a prostitute over payment in a hotel hallway in Cartagena, Colombia.

The employees were in the Caribbean resort city in advance of President Barack Obama's arrival for a South American summit in April. After a night of heavy partying in some of Cartagena's bars and clubs, the employees brought women, including prostitutes, back to their hotel. Eight of those Secret Service employees were forced out of the agency, three were cleared of serious misconduct and at least two were fighting to get their jobs back.

The incident prompted Sullivan to

issue a new code of conduct that barred employees from drinking within 10 hours of the start of a shift and from bringing foreigners to their hotel rooms.

In 2009, Sullivan had to answer questions about how a pair of aspiring socialites talked their way into a state dinner at the White House. That the pair made it into the highly secured event was not only a violation of protocol but raised questions about how easily an unauthorized person could gain close access to the president and vice president.

"In this case, I fully acknowledge the proper procedures were not followed and human error occurred in the execution of our duties," Sullivan told lawmakers after the incident.

Sullivan struck a similar tone in May when he apologized to lawmakers for the behavior of the Secret Service employees in Colombia, insisting that the incident was not indicative of a larger culture problem at the agency.

Sullivan's retirement is effective Feb. 22. His replacement has not been announced.

In an internal message Sullivan sent to employees Friday, he said he was "extremely proud to have had the opportunity to work with the men and women of the Secret Service and represent an agency so deserving of its reputation as one of the finest law enforcement agencies in the world."

Rescue

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"The cat has some severe frost bite, and the veterinarian was not sure it will be able to keep its tail," Brasel stated.

Officials believe the cat may be someone's pet because it appeared to be well fed. It is white with blue eyes.

Brasel said Heartland Humane Society agreed to take the cat into its care once it leaves the veterinarian's office.

The incident was the first rescue operation of the year for first responders, Nickles noted.

He said the department is occasionally called out for animal rescues. Besides cats, iguanas and cockatoos are among the other types of animals that have been saved from potentially perilous situations.

Friday's operation took about 20 minutes, and Nickles said it was kept in perspective. Officials didn't respond with emergency lights, and every precaution was taken to avoid putting a person in danger.

"We did it right and didn't get anyone hurt," Nickles said.

You can follow Nathan Johnson on Twitter at [Twitter.com/AnInlandVoyage](https://twitter.com/AnInlandVoyage)

ORDINANCE #953

AN ORDINANCE ENACTING APPENDIX B. OF THE CODE OF ORDINANCES OF THE CITY OF YANKTON

BE IT ORDAINED, BY THE CITY COMMISSION OF THE CITY OF YANKTON, SOUTH DAKOTA THAT: APPENDIX B. BE CREATED AS SUCH:

Business Improvement District #1.

(a) **Findings & Purpose.** The City of Yankton hereby relies upon the following findings to support its purpose for the creation of "the District."

- (1) The citizens of Yankton participate in many diverse activities that require the support of public facilities and infrastructure. Many people also visit Yankton to participate in a wide range of activities.
- (2) There is a need for improvements to, the expansion of and/or new construction of said facilities and infrastructure.
- (3) The facilities and infrastructure support events in Yankton that generate income for businesses that cater to visitors, including hotels, motels and lodging establishments.
- (4) As a result, the City finds that there is a citywide need to fund a portion of the costs of creation, promotion and marketing of visitor facilities, events, attractions and activities which benefit the City and the hotels, motels and lodging establishments located in "the District." Eligible expenses may include payment for the costs of acquisition, construction, maintenance, operation and funding of public improvements, facilities for the enhancement, expansion, marketing and promotion of visitor facilities, events, attractions and activities.

(b) **Definitions.**

- (1) "Business Owner" shall refer to any existing or future person or entity that owns a hotel, motel or lodging establishment that has twenty-five (25) or more rooms.
- (2) "The District" is Business Improvement District #1 established by the City.
- (3) "Records" refer to all records generated by the "business owner" which identify all rooms rented, all complimentary or leased rooms, and all related financial records.
- (4) The "Resolution of Intent" refers to the action of the Yankton Board of Commissioners in which "the District" was created pursuant to authority granted at SDCL 9-55-7.

(c) **Establishment of District.** Pursuant to SDCL 9-55, et seq., the City hereby has established Business Improvement District #1.

The Yankton Board of City Commissioners previously approved a "Resolution of Intent" to create the district (identified as Resolution #12-44) and conducted a public hearing on the 14th day of January, 2013 held at the Regional Technical Education Center, 1200 W. 21st Street, Room 14, at 7:00 P.M., CST.

(d) **Boundaries of District.** Pursuant to SDCL 9-55-4, the boundaries of "the District" are the corporate limits of the City of Yankton. The businesses subject to the "Occupational Tax" are the following "business owners," all of which operate their businesses within the established non-contiguous business areas with common zoning designations and which are located within the corporate limits of the City of Yankton:

Property	Rooms	Address
a. Best Western Kelly Inn	121	1607 E. Hwy 50
b. Broadway Inn	37	1201 Broadway Ave
c. Day's Inn	46	2410 Broadway Ave.
d. Holiday Inn Express	58	2607 Broadway Ave.
e. Super 8 Motel	59	1603 E. Highway 50

(e) **Boundaries of Business Improvement Area.** Pursuant to SDCL 9-55-5, the business area to be improved is all of the real property located within the Yankton corporate limits.

(f) **New Properties in the District.** Business Improvement District #1 may be expanded by resolution per SDCL to also include all hotel, motel and lodging establishments with 25 rooms or more which are constructed after the creation of the District.

(g) **Voluntary Participation.** Business Improvement District #1 will permit hotel, motel and lodging establishments with less than 25 rooms to be included if they elect to be included.

(h) **Occupational Tax.** The City hereby imposes an occupational tax of Two Dollars (\$2.00), or an amount up to that allowed by SDCL as amended, per night for each room rented to a transient guest by a "business owner." The occupational tax shall be fair, equitable and uniform as to class, and the amount of the tax is subject to establishment and adjustment by the City by resolution in accordance with South Dakota law.

Not subject to the occupational tax are rooms for which there is no fee or rent charged to a transient guest (a "complimentary room") or rooms for which the transient guest enters into a contract to stay twenty-eight (28) or more consecutive nights at the same hotel, motel or lodging establishment (a "leased room").

(i) **Duty to Account.** Each "business owner" shall keep accurate "records" according to generally accepted accounting principles in order to verify that it is properly assessing the occupational tax and remitting the taxes collected.

(j) **Occupational Tax Form.** The City shall adopt a uniform Occupational Tax Form. At the bottom of the Form shall be a sworn statement that provides:

"I declare, under penalty of perjury, that the above accounting of rooms rented is accurate and the tax payment made herein is accurate to the best of my knowledge according to my business records.
Signed _____, Date _____, Title _____."

Every "business owner" governed by this Ordinance shall accurately prepare the Occupational Tax Form, sign the sworn statement and then submit the same along with the taxes remitted.

(k) **Deadline.** The occupational tax generated from the rooms during a particular month shall be remitted by a "business owner" to the City Finance Officer on or before the close of business on the 20th day of the subsequent month. If the 20th day of a particular month is a Holiday, Saturday or Sunday, then the deadline is the first business day thereafter.

(l) **Computation and Collection of Occupational Tax.** The City's Finance Officer shall receive the Occupational Tax Form and remitted taxes, and he/she is then authorized and directed to determine and compute the occupational tax in accordance with this Ordinance.

(m) **Remedies.**

- (1) For purposes of enforcing this Ordinance, the City, or any of its agents or contractors, may audit the "records" of each "business owner." Upon request of the City, its agents or contractors, the "business owner" shall immediately turn over all "records" to the City.
- (2) The City shall have authority to seek legal relief against any "business owner" which has not remitted the Occupational Tax Form and/or the proper amount of tax monies when due. The action may request that the "business owner" allow entry upon the real property in order to gain access to the "records" of the "business owner."
- (3) If the City files an action against a "business owner" to collect a civil late fee or a criminal fine, or both, then the "business owner" shall also be responsible for the City's attorney fees and costs.
- (4) In addition to the foregoing and any other remedies permitted by law or equity, the City may also seek penalties identified in (n) or an occupational tax lien identified in (o).

(n) **Penalties.**

- (1) If a "business owner" delivers the Occupational Tax Form in a timely fashion, but the total amount of the tax due is not remitted therewith, then the "business owner" shall be charged a civil "late fee."
- (2) If a "business owner" fails to deliver the Occupational Tax Form in a timely fashion, then the "business owner" shall be subject to a "criminal fine." In addition, the "business owner" shall be charged a "late fee."
- (3) No "late fee" may be passed onto a transient guest(s). If a "business owner" passes on a "late fee" to a transient guest, then the "business owner" shall be subject to a "criminal fine."
- (4) All "late fees" shall be ten percent (10%) of the total amount due.
- (5) The maximum "criminal fine" shall be two hundred dollars (\$200.00).

(o) **Occupational Tax Affidavit and Lien.**

- (1) If a monthly tax remittance is not paid by the final day of the month in which it is due, then the City Finance Officer shall create an "Occupational Tax Affidavit" wherein, along with other pertinent identifying information, the amount of the unpaid amount or balance of the occupational tax is identified. If the unpaid amount or balance is unknown because the Occupational Tax Form was not submitted, then the City Finance Officer shall so note in the Affidavit.
- (2) A copy of the "Occupational Tax Affidavit" shall be mailed, return receipt, to the "business owner." A copy of the return receipt and the original "Occupational Tax Affidavit" shall be delivered to the County Treasurer for collection in the same manner as general real property taxes are collected.
- (3) A "business owner" may appeal the decision of the City Finance Officer to issue an "Occupational Tax Affidavit" to the City Manager by filing a notice of appeal within fifteen (15) days after receiving actual notice of the same. The "business owner" shall present its written objections along with the notice of appeal to the City Manager who shall reply within thirty (30) days after receiving notice of the appeal.
- (4) The "business owner" may appeal the City Manager's decision to the Board of City Commissioners by filing a notice of appeal within fifteen (15) days after receiving actual notice of the City Manager's reply.
- (5) Any unpaid tax remittances identified in an "Occupational Tax Affidavit" shall constitute a lien upon the real property owned or used by the "business owner." The lien shall run with the land. The lien shall be enforced and collected in the same manner as unpaid real property taxes and assessments.
- (6) Until such time that the unpaid amount or balance is paid by the "business owner," the City Finance Officer shall have the authority to deny to the "business owner" the issuance of permits or licenses, or any renewals thereof, to that business, including, but not limited to, building permits, malt beverage licenses and liquor licenses. The City Finance Officer shall also have the right to discontinue water service to the hotel, motel or lodging establishment in question. This provision shall not be construed in any manner to deny the City any other available remedies.
- (7) In the event that the tax becomes subject to the supervision of the State through the Department of Revenue, any rights of the City herein granted shall be deemed cumulative to any powers which inure to the benefit of the State.

(p) **Administrative Fee.** The City shall receive a monthly administration fee that shall not exceed two percent (2%) of the total amount of occupational tax proceeds collected during that month.

(q) **Appropriation.** After the occupational taxes have been collected, and the City has deducted its Administrative Fee from the taxes collected, the City shall deposit the remaining balance into a separate account established by the Board of Directors for the "the District." The Board of Directors shall make annual recommendations for the use of the tax funds that are consistent with the City's "Resolution of Intent," the findings and purpose noted above, and SDCL 9-55-3, as amended.

(r) **Savings Clause.** If any portion of this Ordinance, for any reason, shall be held invalid, then such decision shall not offset the validity of the remaining portions of this Ordinance.

First Reading: January 14, 2013
Second Reading and Adoption: January 28, 2013
Publication: February 2, 2013
Effective Date: February 25, 2013

Nancy Wenande, Mayor

Attest: _____
Al Viereck, Finance Officer

Published once at the approximate cost of \$651.00.