

ORDINANCE NO. 11874  
(New Series) **AUG 11 1976**

AN ORDINANCE AMENDING CHAPTER III, ARTICLE 5,  
DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY  
AMENDING SECTIONS 35.0102, 35.0103, 35.0105  
AND 35.0107 RELATING TO REPORTING AND REMITTING  
TRANSIENT OCCUPANCY TAX

BE IT ORDAINED, by the Council of The City of San Diego,  
as follows:

Section 1. That Chapter III, Article 5, Division 1 of the  
San Diego Municipal Code be and the same is hereby amended by  
amending Sections 35.0102, 35.0103, 35.0105 and 35.0107 to  
read as follows:

SEC. 35.0102 DEFINITIONS

Except where the context otherwise requires, the  
definitions given in this section govern the construction  
of this article.

a. Person. "Person" means any individual, firm,  
partnership, joint venture, association, social club,  
fraternal organization, joint stock company, corpora-  
tion, estate, trust, business trust, receiver, trustee,  
syndicate, or any other group or combination acting  
as a unit.

b. Hotel. "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 is held  
out as such to the public. "Hotel" does not mean any  
hospital, convalescent home or sanitarium.

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c. Occupancy. "Occupancy" means the use or possession, or the right to the use or possession of any room or rooms or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.

d. Transient. "Transient" means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any person who in fact exercises occupancy or in fact is entitled to occupancy for a period of thirty-one (31) days or more, counting portions of calendar days as full days, shall be deemed not to have been a transient with respect to the first thirty (30) days of occupancy or entitlement to occupancy.

e. Rent. "Rent" means the consideration charged for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.

f. Collected. "Collected" means the time at which the rent becomes due and owing the operator. If such operator chooses to extend credit to the transient, this will not relieve the operator

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from the duty of remitting the tax due the City at the time the operator is required to report.

g. Operator. "Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this article and shall have the same duties and liabilities as his principal. Compliance with the provisions of this article by either the principal or the managing agent shall, however, be considered to be compliance by both.

SEC. 35.0103 TAX IMPOSED

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of six percent (6%) of the rent charged by the operator. Said tax constitutes a debt owed by the transient to the City which is extinguished only by payment to the operator or to the City. The transient shall pay the tax to the operator of the hotel at the time such transient ceases to occupy space in the hotel. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be

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due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the City Treasurer may require that such tax shall be paid directly to the City Treasurer.

SEC. 35.0105 OPERATOR'S DUTIES

Each operator shall collect the tax imposed by this article to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner hereinafter provided. Each operator shall account separately for taxable and nontaxable rents and for taxes collected. Taxable rents are those defined in Section 35.0103.

SEC. 35.0107 REPORTING AND REMITTING

Returns may be made on a calendar quarter basis or a reporting basis other than a calendar quarter reporting period. An operator that desires to utilize a reporting period other than a calendar quarter reporting period must request and obtain written approval from the City Treasurer prior to the implementation of such reporting

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plan. Unless such approval is given, operators must report on a calendar quarter basis.

a. Calendar Quarter. Each operator reporting on a calendar quarter basis shall, on or before the last day of the month following the close of each calendar quarter, make a return to the City Treasurer, on forms provided by him, of the total transient rents charged and the amount of tax collected for transient occupancies. At the time the return is filed, the full amount of the tax collected shall be remitted to the City Treasurer. Returns filed or taxes remitted and actually received by the City Treasurer on or before the last day of the month following the close of each calendar quarter shall be deemed timely filed or remitted.

b. Other Approved Reporting Periods. Each operator reporting on an approved basis other than a calendar quarter basis shall, on or before the same day of the next month following the close of such reporting period or on the last day of the next month if no corresponding day exists, make a return to the City Treasurer, on forms provided by him, of the total transient rents charged and the amount of tax collected for transient occupancies. At the time the return is filed, the full amount of the tax collected shall be remitted to the City Treasurer. Returns filed on taxes remitted and actually received by the

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City Treasurer on or before the same day of the next month following the close of such reporting period, or on the last day of the next month if no corresponding day exists, shall be deemed timely filed or remitted.

c. Timely Returns. Returns filed or taxes remitted by mail shall be deemed timely filed only if the envelope or similar container enclosing the returns or taxes is addressed to the City Treasurer, has sufficient postage and bears a United States postmark or a postage meter imprint prior to midnight on the last day for reporting or remitting without penalty. If such envelope or other container bears a postage meter imprint as well as a United States post office cancellation mark, the latter shall govern in determining whether the filing or remittance is timely. The City Treasurer may establish shorter reporting periods for any certificate holder if he deems it necessary in order to insure collection of the tax and he may require further information in the return. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this article shall be held in trust for the account of the City until payment thereof is made to the City Treasurer. All returns and payments submitted by each operator shall be treated as confidential by the City Treasurer and shall not be released by him except upon order of a court of

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competent jurisdiction or to an officer or agent of the United States, the State of California, the County of San Diego, or The City of San Diego for official use only.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By Paul E. Robinson  
Paul E. Robinson  
Deputy City Attorney

PER:k:160.1  
4-13-76  
Or.Dept.: Treasurer

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Passed and adopted by the Council of The City of San Diego on \_\_\_\_\_, by the following vote:

Councilmen	Yeas	Nays	Excused	Absent
Gil Johnson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maureen F. O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lee Hubbard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Floyd L. Morrow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Gade	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Jess D. Haro	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON

Mayor of The City of San Diego, California.

EDWARD NIELSEN

City Clerk of The City of San Diego, California.

(Seal)

By  *Kathleen Martinez* , Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

JUL 28 1976

AUG 11 1976

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

EDWARD NIELSEN

City Clerk of The City of San Diego, California.

By  *Kathleen Martinez* , Deputy.

RECEIVED  
CITY CLERK'S OFFICE  
1976 JUN 15 AM 11:49  
SAN DIEGO, CALIF. (Seal)

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CC-1255-A (REV. 12-75)

Office of the City Clerk, San Diego, California	
Ordinance Number	11874
Adopted	AUG 11 1976

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*Lu*



ATTORNEY(S)

San Diego, City of  
202 C St., 12th Floor  
San Diego, CA 92101  
Attn: Kathleen Martinez

CERTIFICATE OF PUBLICATION

No.

IN THE MATTER OF

TRANSIENT OCCUPANCY TAX

ORDINANCE NO. 11874

(New Series)

AN ORDINANCE AMENDING CHAPTER III, ARTICLE 5, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 35.0102, 35.0103, 35.0105 AND 35.0107 RELATING TO REPORTING AND REMITTING TRANSIENT OCCUPANCY TAX BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter III, Article 5, Division 1 of the San Diego Municipal Code be and the same is hereby amended by amending Sections 35.0102, 35.0103, 35.0105 and 35.0107 to read as follows:

SEC. 35.0102

DEFINITIONS

Except where the context otherwise requires, the definitions given in this section govern the construction of this article.

a. Person. "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

b. Hotel. "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 is held out as such to the public. "Hotel" does not mean any hospital, convalescent home or sanitarium.

c. Occupancy. "Occupancy" means the use or possession, or the right to the use or possession of any room or rooms or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.

d. Transient. "Transient" means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any person who in fact exercises occupancy or in fact is entitled to occupancy for a period of thirty-one (31) days or more, counting portions of calendar days as full days, shall be deemed not to have been a transient with respect to the first thirty (30) days of occupancy or entitlement to occupancy.

PATRICIA M. DUTRA

I, Patricia M. Dutra hereby certify that the San Diego Daily Transcript is a daily newspaper of general circulation within the provisions of the Government Code of the State of California, printed and published in the City of San Diego, County of San Diego, State of California; that I am the principal clerk of said newspaper; and the

ORDINANCE NO. 11874

is a true and correct copy of which this certificate is annexed and was published in said newspaper on

August 25, 1976

I certify under penalty of perjury that the foregoing is true and correct, at San Diego, California, on

August 25, 1976

(Signature)

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e. Rent. "Rent" means the consideration charged for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.

f. Collected. "Collected" means the time at which the rent becomes due and owing the operator. If such operator chooses to extend credit to the transient, this will not relieve the operator from the duty of remitting the tax due the City at the time the operator is required to report.

g. Operator. "Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this article and shall have the same duties and liabilities as his principal. Compliance with the provisions of this article by either the principal or the managing agent shall, however, be considered to be compliance by both.

**SEC. 35.0103 TAX IMPOSED.**

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of six percent (6%) of the rent charged by the operator. Said tax constitutes a debt owed by the transient to the City which is extinguished only by payment to the operator or to the City. The transient shall pay the tax to the operator of the hotel at the time such transient ceases to occupy space in the hotel. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the City Treasurer may require that such tax shall be paid directly to the City Treasurer.

**SEC. 35.0105 OPERATOR'S DUTIES.**

Each operator shall collect the tax imposed by this article to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner hereinafter provided. Each operator shall account separately for taxable and nontaxable rents and for taxes collected. Taxable rents are those defined in Section 35.0103.

**SEC. 35.0107 REPORTING AND REMITTING.**

Returns may be made on a calendar quarter basis or a reporting basis other than a calendar quarter reporting period. An operator that desires to utilize a reporting period other than a calendar quarter reporting period must request and obtain written approval from the City Treasurer prior to the implementation of such reporting plan. Unless such approval is given, operators must report on a calendar quarter basis.

a. Calendar Quarter. Each operator reporting on a calendar quarter basis shall, on or before the last day of the month following the close of each calendar quarter, make a return to the City Treasurer, on forms provided by him, of the total transient rents charged and the amount of tax collected for transient occupancies. At the time the return is filed, the full amount of the tax collected shall be remitted to the City Treasurer. Returns filed or taxes remitted and actually received by the City Treasurer on or before the last day of the month following the close of each calendar quarter shall be deemed timely filed or remitted.

b. Other Approved Reporting Periods. Each operator reporting on an approved basis other than a calendar quarter basis shall, on or before the same day of the next month following the close of such reporting period or on the last day of the next month, if no corresponding day exists, make a return to the City Treasurer, on forms provided by him, of the total transient rents charged and the amount of tax collected for transient occupancies. At the time the return is filed, the full amount of the tax collected shall be remitted to the City Treasurer. Returns filed or taxes remitted and actually received by the City Treasurer on or before the same day of the next month following the close of such reporting period, or on the last day of the next month if no corresponding day exists, shall be deemed timely filed or remitted.

c. Timely Returns. Returns filed or taxes remitted by mail shall be deemed timely filed only if the envelope or similar container enclosing the returns or taxes is addressed to the City Treasurer, has sufficient postage and bears a United States postmark or a postage meter imprint prior to midnight on the last day for reporting or remitting without penalty. If such envelope or other container bears a postage meter imprint as well as a United States post office cancellation mark, the latter shall govern in determining whether the filing or remittance is timely. The City Treasurer may establish shorter reporting periods for any certificate holder if he deems it necessary in order to insure collection of the tax and he may require further information in the return. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this article shall be held in trust for the account of the City until payment thereof is made to the City Treasurer. All returns and payments submitted by each operator shall be treated as confidential by the City Treasurer and shall not be released by him except upon order of a court of competent jurisdiction or to an officer or agent of the United States, the State of California, the County of San Diego, or The City of San Diego for official use only.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

Introduced on July 28, 1976.  
Passed and adopted by the Council of The City of San Diego on August 11, 1976.

AUTHENTICATED BY:  
PETE WILSON,  
Mayor of The City of San Diego, California.  
EDWARD NIELSEN,  
City Clerk of The City of San Diego, California.  
By KATHLEEN MARTINEZ, Deputy.

(SEAL)  
Pub. Aug. 25, 1976. LS-8378

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Endurance No. 11874