

(O-91-6)

17506

ORDINANCE NUMBER O-_____ (NEW SERIES)

ADOPTED ON JUL 30 1990

AN ORDINANCE AMENDING CHAPTER III, ARTICLE 1, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 31.0305, BY RENUMBERING AND AMENDING SECTION 31.0305.1, BY REPEALING SECTION 31.0305.2, AND BY ADDING SECTIONS 31.0309, SECTION 31.0310 AND SECTION 31.0311, RELATING TO BUSINESS TAXES.

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

Section 1. That Chapter III, Article 1, of the San Diego Municipal Code be and the same is hereby amended by amending Section 31.0305, to read as follows:

SEC. 31.0305 BUSINESS TAX -- APARTMENT HOUSES, FLAT DWELLINGS, AUTO COURTS, MOTELS, HOTELS, BUNGALOW COURTS, RENTAL UNITS, AND OTHER RESIDENTIAL REAL ESTATE

a. Every person conducting, operating, managing or renting any residential real estate, including but not limited to an apartment house, flat dwelling, auto court, motel, hotel, bungalow court, single or multiple family residence, or any other dwelling or groups of dwellings or structures located upon any lot or contiguous lots or parcels of land forming a group of apartments or rental units under one ownership or management shall pay a business tax of forty dollars (\$40) per property plus three dollars (\$3) per unit annually on all residential real estate.

b. The business tax for the rental of residential real estate shall be assessed per property and the liability for such tax shall be determined by the owner-lessor's ownership of or leasehold interest in said property. If a single structure is situated upon two or more contiguous properties comprising two or more tax assessor parcel numbers, or if the property is a single or multiple structure operated as a single rental entity situated on two or more tax assessor parcel numbers, the owner-lessor may, upon submission of acceptable documentary proof to the City Treasurer, obtain a single consolidated business tax assessment for that property.

c. Residential real estate shall include the rental of a single family residence, including a mobile home, by an owner-lessor.

d. The business tax imposed by this section shall constitute a lien on the real property upon which the business is conducted and, subject to Section 31.0309, shall be collected by the San Diego County Tax Assessor in the same manner by tax assessor parcel numbers as are ordinary property taxes, to be remitted to the City Treasurer.

e. A business tax shall not be required of any owner of a structure who resides in a single family residence but participates with one or more other residents in the shared costs of the premises, or who

rents only to an immediate family member at a rental that is less than the costs of the premises. As used herein, the term "costs of the premises" means those payments related to mortgage, taxes, insurance, and condominium or homeowners association fees.

f. It shall be presumptive evidence that a single family residence is considered rented if the owner fails to claim the property tax exemption annually applicable according to the San Diego County Tax Assessor's records. Whenever a homeowner shall fail to claim such exemption for any calendar year, it shall be presumed that the properties were rented and therefore subject to the business tax, unless the homeowner shall establish to the satisfaction of the City Treasurer that the premises were not rented. Proof may include copies of any state or federal tax returns showing that there was no rental income received by the owner for the calendar year in which the City Treasurer makes the determination, provided that the owner had not advertised or otherwise held out the property as being available for lease or rental during that calendar year.

Section 2. That Section 31.0305.1 be renumbered as 31.0307 and be further amended to read as follows:

SEC. 31.0307 BUSINESS TAX -- TRAILER PARKS OR MOBILE HOME PARKS

Every person conducting, operating or managing any trailer park or mobile home park shall pay annually a

business tax of forty dollars (\$40) plus three dollars (\$3) per trailer unit or rental space. The business tax imposed by this section shall constitute a lien on the real property upon which the trailer park or mobile home park is operated and shall be collectable in the same manner as ordinary property taxes by the San Diego County Tax Assessor, to be remitted to the City Treasurer.

Section 3. That Section 31.0305.2 be and hereby is repealed.

Section 4. That Sections 31.0309, 31.0310 and 31.0311 be added, to read as follows:

SEC. 31.0309 TRANSITION RULES

During the first year of their applicability, the business taxes imposed by Sections 31.0305 and 31.0307 may be collected by the City Treasurer at such times and using such procedures as shall be necessary and appropriate to provide for orderly administrative transition and collection.

SEC. 31.0310 UTILIZATION OF REVENUES

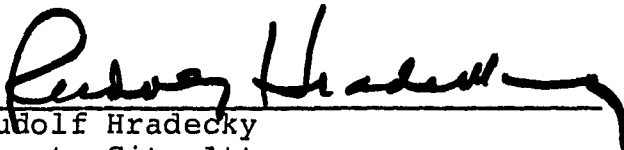
The taxes imposed under Sections 31.0301 through 31.0308 shall be collected by or remitted to the City Treasurer and deposited to the General Fund of the City (Fund No. 100), to be used for general governmental purposes as the City Council may from time to time provide in accordance with the City Charter of The City of San Diego and its appropriation ordinances and resolutions.

SEC. 31.0311 PENALTIES

Notwithstanding the provisions of Section 31.0131, at such times as the taxes imposed by Sections 31.0305 and 31.0307 are collected by the County Tax Assessor by placement upon the Assessor's Rolls, the penalties for unpaid taxes shall conform to those charges imposed for delinquent taxes.

Section 5. This ordinance shall take effect and be in force on September 1, 1990 or on the thirtieth day from and after its passage, whichever is later.

APPROVED: JOHN W. WITT, City Attorney

By 
Rudolf Hradecky
Deputy City Attorney

RH:mb
07/11/90
Or.Dept:Treas.
O-91-6
Form=o.none

OLD LANGUAGE - STRUCK OUT
NEW LANGUAGE - UNDERLINED

(O-91-6)

STRIKEOUT ORDINANCE NUMBER O-_____ (NEW SERIES)

ADOPTED ON _____

AN ORDINANCE AMENDING CHAPTER III, ARTICLE 1,
OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING
SECTION 31.0305, BY RENUMBERING AND AMENDING
SECTION 31.0305.1, BY REPEALING SECTION
31.0305.2, AND BY ADDING SECTIONS 31.0309,
31.0310 AND 31.0311, RELATING TO BUSINESS
TAXES.

**SEC. 31.0305 BUSINESS TAX -- APARTMENT HOUSES, FLAT
DWELLINGS, AUTO COURTS, MOTELS, HOTELS,
BUNGALOW COURTS, AND RENTAL UNITS, AND
OTHER RESIDENTIAL REAL ESTATE**

a. Every person conducting, operating, ~~or~~ managing
or renting any residential real estate, including but
not limited to an apartment house, flat dwelling, auto
court, motel, hotel, bungalow court, single or multiple
family residence, or any other dwelling or groups of
dwellings or structures located upon any lot or
contiguous lots or parcels of land forming a group of
apartments/ or rental units/ under one ownership or
management ~~and containing six (6) or more apartments or~~
~~rental units/~~ shall pay a business tax of ~~thirty~~ forty
dollars (\$~~30~~ 40) per property plus ~~two~~ three dollars
(\$3) per unit annually on all residential real estate.
~~Any person operating or managing less than six (6) such~~
~~apartments or rental units/ who is also conducting other~~
~~business or services at the same location/ must obtain a~~
~~certificate of payment pursuant to section 31.0301 of~~
~~this code/ The business taxes provided for in this~~

section shall be due and payable on the 1st day of January of each year, and shall be renewable within one month after their expiration on December 31 of each year.

b. The business tax for the rental of residential real estate shall be assessed per property and the liability for such tax shall be determined by the owner-lessor's ownership of or leasehold interest in said property. If a single structure is situated upon two or more contiguous properties comprising two or more tax assessor parcel numbers, or if the property is a single or multiple structure operated as a single rental entity situated on two or more tax assessor parcel numbers, the owner-lessor may, upon submission of acceptable documentary proof to the City Treasurer, obtain a single consolidated business tax assessment for that property.

c. Residential real estate shall include the rental of a single family residence, including a mobile home, by an owner-lessor.

d. The business tax imposed by this section shall constitute a lien on the real property upon which the business is conducted and, subject to Section 31.0309, shall be collected by the San Diego County Tax Assessor in the same manner by tax assessor parcel numbers as are ordinary property taxes, to be remitted to the City Treasurer.

e. A business tax shall not be required of any owner of a structure who resides in a single family residence but participates with one or more other residents in the shared costs of the premises, or who rents to an immediate family member at a rental that is less than the costs of the premises. As used herein, the term "costs of the premises" means those payments related to mortgage, taxes, insurance, and condominium or homeowners association fees.

f. It shall be presumptive evidence that a single family residence is considered rented if the owner fails to claim the property tax exemption annually applicable according to the San Diego County Tax Assessor's records. Whenever a homeowner shall fail to claim such exemption for any calendar year, it shall be presumed that the properties were rented and therefore subject to the business tax, unless the homeowner shall establish to the satisfaction of the City Treasurer that the premises were not rented. Proof may include copies of any state or federal tax returns showing that there was no rental income received by the owner for the calendar year in which the City Treasurer makes the determination, provided that the owner had not advertised or otherwise held out the property as being available for lease or rental during that calendar year.

SEC. ~~31.0303~~ 31.0307 BUSINESS TAX -- TRAILER PARKS OR MOBILE HOME PARKS

Every person conducting, operating or managing any trailer park or mobile home park shall pay annually a business tax of ~~thirty~~ forty dollars (\$~~30~~ 40) plus ~~two~~

three dollars (\$2 3) per trailer unit or rental space. The number of taxable units shall be determined on January 1st of each year. The taxes provided for in this section shall be due and payable on January 1st of each year and shall be renewable within one month after their expiration on December 31 of each year. The business tax imposed by this section shall constitute a lien on the real property upon which the trailer park or mobile home park is operated and shall be collectable in the same manner as ordinary property taxes by the San Diego County Tax Assessor, to be remitted to the City Treasurer.

SEC. 31.0305/2 HOUSING AND TRAILER PARK TAX -- PURPOSE AND INTENT

The business taxes enumerated in Sections 31.0303 and 31.0307 shall be due and payable on a calendar year basis at the same time that housing permit fees are collected. ALL new businesses enumerated in Sections 31.0303 and 31.0307 that commence business after January 1st of any year shall pay the taxes provided on a quarterly basis for the balance of the calendar year. Such business taxes shall not be transferable from one establishment to another or from one location to another.

SEC. 31.0309 TRANSITION RULES

During the first year of their applicability, the business taxes imposed by Sections 31.0305 and 31.0307 may be collected by the City Treasurer at such times and using such procedures as shall be necessary and appropriate to provide for orderly administrative transition and collection.

SEC. 31.0310 UTILIZATION OF REVENUES

The taxes imposed under Sections 31.0301 through 31.0308 shall be collected by or remitted to the City

Treasurer and deposited to the General Fund of the City (Fund No. 100), to be used for general governmental purposes as the City Council may from time to time provide in accordance with the City Charter of The City of San Diego and its appropriation ordinances and resolutions.

SEC. 31.0311 PENALTIES

Notwithstanding the provisions of Section 31.0301, at such time as the taxes imposed by Sections 31.0305 and 31.0307 are collected by the County Tax Assessor by placement upon the Assessor's Rolls, the penalties for unpaid taxes shall conform to those charges imposed for delinquent taxes.

RH:smm:mb
07/12/90

Passed and adopted by the Council of The City of San Diego on JUL 30 1990,
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
John Hartley	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Linda Bernhardt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR
Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

By Linda Sugano, 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 17 1990, and on JUL 30 1990.

~~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.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

(Seal)

By Linda Sugano, Deputy.

Office of the City Clerk, San Diego, California

Ordinance 0-17506 JUL 30 1990
Number Adopted.....

CERTIFICATE OF PUBLICATION

RECEIVED
CITY CLERK'S OFFICE
90 AUG 20 PM 4: 24
SAN DIEGO, CALIF.

CITY CLERK'S OFFICE
CITY ADM. BLDG., 2ND FLOOR
SAN DIEGO, CA. 92101

IN THE MATTER OF
AN ORDINANCE AMENDING CHAPTER III, ARTICLE 1,...

NO.

I, THOMAS D. KELLEHER, am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

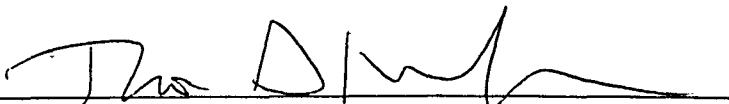
ORDINANCE NUMBER 0-17506 (NEW SERIES)

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

AUG. 13

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 13TH day of AUG, 1990.


(Signature)

4 1/2 x 2 = 112.32

ORDINANCE NUMBER 0-17506 (NEW SERIES)
AN ORDINANCE AMENDING CHAPTER III, ARTICLE 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 31.0305, BY RENUMBERING AND AMENDING SECTION 31.0305.1, BY REPEALING SECTION 31.0305.2, AND BY ADDING SECTIONS 31.0309, 31.0310 AND 31.0311 RELATING TO BUSINESS TAXES.
This Ordinance amends Chapter III, Article 1 of the San Diego Municipal Code pertaining to business taxes of residential real estate and trailer parks.
Section 31.0305 is amended to increase the business tax on rental units to \$40 per property and \$3 per unit on all residential real estate. Residential real estate includes single family dwellings rented out by an owner, but shall not include a situation where the owner occupies the dwelling and shares expenses with one or more other residents, or rents to an immediate family member at a cost that is less than the cost of the premises, as defined. The business tax imposed by this section is made a lien upon the property and collectable by the County Tax Assessor, in the same method and manner as ordinary taxes. Properties will be considered rental properties subject to business taxes for any year in which the owner does not claim a homeowner's property tax exemption, unless the owner establishes that the property was not rented.
Section 31.0305.1 is renumbered as 31.0307 to provide that the business tax upon trailer parks and mobile home parks shall be computed at the rate of \$40 per property plus \$3 per space.
Section 31.0305.2 is repealed.
Section 31.0309 is added to provide for transition rules and collection by the City Treasurer.
Section 31.0310 is added to provide that the business taxes collected under this article shall be deposited to the General Fund to be used for general governmental purposes of The City of San Diego.
Section 31.0311 is added to impose penalties for unpaid business taxes.
A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd floor, City Administration Building, 202 "C" Street, San Diego, CA 92101.
INTRODUCED ON JULY 17 1990
Passed and Adopted by the Council of The City of San Diego on JULY 30 1990
AUTHENTICATED BY:
MAUREEN O'CONNOR
Mayor of The City of San Diego, CA
CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, CA
(SEAL)
By LINDA LUGANO, Deputy.
Pub. August 13 1990