

334

(O-93-203)

ORDINANCE NUMBER O- **17993** (NEW SERIES)

ADOPTED ON **SEP 28 1993**

AN ORDINANCE AMENDING CHAPTER III, ARTICLE 1, DIVISION 3, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 31.0305 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, Division 3, 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, MOTELS, HOTELS, RENTAL UNITS, AND OTHER RESIDENTIAL REAL ESTATE

(a) Definitions. For purposes of Section 31.0305, the following definitions apply:

"Apartment house" means a building arranged in separate units, each unit containing a kitchen and a bathroom, designed to house several families living independently of one another.

"Condominium" means a building or part of a building designed to house not more than one family including all necessary employees of such family.

"Costs of the premises" means those payments related to mortgage, taxes, insurance, and condominium or homeowners association fees.

"Duplex" means a detached building, containing not more than two kitchens, designed to house two families living independently of each other.

"Flat dwelling" means a building arranged in separate units, each unit containing a kitchen and a bathroom, designed to house several families living independently of one another.

"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.

"Immediate family member" means a husband, wife, parent, child, brother, sister, stepchild, adopted child, grandchild, great-grandchild, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, sister-in-law, half-brother, or half-sister, or if related by blood, any uncle, aunt, niece, or nephew, or spouse of any of those persons.

"Lessor" means one who grants a lease.

"Mobile home" means a large house trailer, designed for year-round living in one place.

"Motel" 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. "Motel" does not mean any hospital, convalescent home, or sanitarium.

"Multiple family dwelling" means one or more related dwelling units situated on one and the same lot

0-17993

or parcel of land that has been zoned for multiple family dwellings, designed to house three or more families living independently of each other.

"Owner" means a person who holds legal title to property.

"Owner-lessor" means an owner who grants a lease.

"Rent" means consideration exchanged for use, occupation, or enjoyment of property.

"Rental complex" means two or more related dwelling units, designed to house two or more families living independently of one another, which units are owned and operated under one and the same ownership and which cannot be bought, sold, transferred, exchanged, traded, quitclaimed, deeded, willed, or in any way released independently of one another.

"Single family dwelling" means a building or part of a building designed to house not more than one family including all necessary employees of such family.

"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 less than one month.

"Two family dwelling" means a detached building, containing not more than two kitchens, designed to house two families living independently of each other.

(b) Every person conducting, operating, managing or renting any residential real estate, including an apartment house, flat dwelling, single or multiple family dwelling, duplex, or any other dwelling, except a motel or hotel which shall be subject to Section 31.0305(c), shall pay a business tax of fifty dollars (\$50) per property plus five dollars (\$5) per unit annually on all residential real estate containing at least one dwelling unit but no more than ten dwelling units, fifty-seven dollars (\$57) per property plus nine dollars (\$9) per unit annually on all residential real estate containing at least eleven dwelling units but no more than one hundred dwelling units, and one hundred fifty dollars (\$150) per property plus eight dollars (\$8) per unit on all residential real estate containing more than one hundred dwelling units.

(c) Every person conducting, operating, managing or renting any motel or hotel shall pay a business tax of fifty dollars (\$50) per property plus five dollars (\$5) per unit annually on all motels and hotels containing at least one dwelling unit but no more than two hundred fifty units and fifty-seven dollars (\$57) per property plus nine dollars (\$9) per unit annually on all motels and hotels containing more than two hundred fifty units.

(d) 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 or leasehold interest in said property. If one single family dwelling or one duplex is situated upon two or more contiguous properties comprising two or more tax assessor parcel numbers, or if one or more apartment houses, flat dwellings, multiple family dwellings, motels or hotels wholly operated under one ownership as a single rental complex is situated on two or more contiguous tax assessor parcel numbers, the owner-lessor may, upon submission of documentary proof acceptable to the City Treasurer, obtain a single consolidated business tax assessment for that property.

(e) Residential real estate shall include the rental of a single family dwelling, including a mobile home, by an owner-lessor.

(f) The business tax imposed by Section 31.0305 shall constitute a lien on the real property upon which the business is conducted and shall be collected by the City Treasurer.

(g) A business tax shall not be required of any person who owns and resides in a single family dwelling 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 rent that is less than the costs of the premises.

(h) It shall be presumptive evidence that a single family dwelling is considered rented if the owner fails to claim the property tax exemption

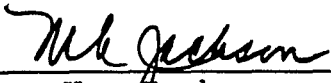
0-17993

annually applicable according to the San Diego County Tax Assessor's records. Whenever an owner fails 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 owner establishes 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 rent during that calendar year.

(j) For purposes of Section 31.0305 the City Manager shall be the final judge of what constitutes acceptable documentary proof in support of requests for exemption or consolidation of tax assessments.

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 
Mary Kay Jackson
Deputy City Attorney

MKJ:mb
06/22/93
06/25/93 Corr.
Or.Dept:Treas.
O-93-203
Form=o+t

NEW LANGUAGE - SHADED
OLD LANGUAGE - STRICKEN

(O-93-203)

ORDINANCE NUMBER O-_____ (NEW SERIES)

ADOPTED ON _____

AN ORDINANCE AMENDING CHAPTER III, ARTICLE 1,
DIVISION 3, OF THE SAN DIEGO MUNICIPAL CODE
BY AMENDING SECTION 31.0305 RELATING TO
BUSINESS TAXES.

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

(a) Definitions. For purposes of Section

31.0305, the following definitions apply:

"Apartment house" means a building arranged
in separate units, each unit containing a kitchen and
a bathroom, designed to house several families living
independently of one another.

"Condominium" means a building or part of
a building designed to house not more than one family
including all necessary employees of such family.

"Costs of the premises" means those payments
related to mortgage, taxes, insurance, and condominium
or homeowners association fees.

"Duplex" means a detached building,
containing not more than two kitchens, designed to
house two families living independently of each other.

"Flat dwelling" means a building arranged in
separate units, each unit containing a kitchen and a
bathroom, designed to house several families living

independently of one another.

"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.

"Immediate family member" means a husband, wife, parent, child, brother, sister, stepchild, adopted child, grandchild, great-grandchild, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, sister-in-law, half-brother, or half-sister, or if related by blood, any uncle, aunt, niece, or nephew, or spouse of any of those persons.

"Lessor" means one who grants a lease.

"Mobile home" means a large house trailer, designed for year-round living in one place.

"Motel" 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. "Motel" does not mean any hospital, convalescent home, or sanitarium.

"Multiple family dwelling" means one or more related dwelling units situated on one and the same lot or parcel of land that has been zoned for multiple family dwellings, designed to house three or more families living independently of each other.

"Owner" means a person who holds legal title to property.

"Owner-lessor" means an owner who grants a lease.

"Rent" means consideration exchanged for use, occupation, or enjoyment of property.

"Rental complex" means two or more related dwelling units, designed to house two or more families living independently of one another, which units are owned and operated under one and the same ownership and which cannot be bought, sold, transferred, exchanged, traded, quitclaimed, deeded, willed, or in any way released independently of one another.

"Single family dwelling" means a building or part of a building designed to house not more than one family including all necessary employees of such family.

"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 less than one month.

"Two family dwelling" means a detached building, containing not more than two kitchens, designed to house two families living independently of each other.

a-(b) Every person conducting, operating, managing or renting any residential real estate, including ~~but not limited to~~ an apartment house, flat

dwelling, ~~metel, hotel,~~ single or multiple family dwelling, duplex, or any other dwelling, except a motel or hotel which shall be subject to Section 31.0305(c), shall pay a business tax of fifty dollars (\$50) per property plus five dollars (\$5) per unit annually on all residential real estate containing at least one dwelling unit but no more than ten dwelling units, and ~~fifty dollars (\$50) per property plus eleven dollars (\$11) per unit annually on all residential real estate containing more than ten dwelling units.~~ fifty-seven dollars (\$57) per property plus nine dollars (\$9) per unit annually on all residential real estate containing at least eleven dwelling units but no more than one hundred dwelling units, and one hundred fifty dollars (\$150) per property plus eight dollars (\$8) per unit on all residential real estate containing more than one hundred dwelling units.

(c) Every person conducting, operating, managing or renting any motel or hotel shall pay a business tax of fifty dollars (\$50) per property plus five dollars (\$5) per unit annually on all motels and hotels containing at least one dwelling unit but no more than two hundred fifty units and fifty-seven dollars (\$57) per property plus nine dollars (\$9) per unit annually on all motels and hotels containing more than two hundred fifty units.

b-(d) 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 or leasehold interest in said property. If one single family dwelling or one duplex is situated upon two or more contiguous properties comprising two or more tax assessor parcel numbers, or if one or more apartment houses, flat dwellings, multiple family dwellings, motels or hotels wholly operated under one ownership as a single rental complex is situated on two or more contiguous tax assessor parcel numbers, the owner-lessor may, upon submission of documentary proof acceptable to the City Treasurer, obtain a single consolidated business tax assessment for that property.

~~e.~~(e) Residential real estate shall include the rental of a single family dwelling, including a mobile home, by an owner-lessor.

~~d.~~(f) The business tax imposed by ~~this section~~ **Section 31.0305** shall constitute a lien on the real property upon which the business is conducted and shall be collected by the City Treasurer.

~~e.~~(g) A business tax shall not be required of any person who owns and resides in a single family dwelling 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 rent that is less than the costs of the premises.

~~f.~~(h) It shall be presumptive evidence that a single family dwelling 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 an owner fails 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 owner establishes 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 rent during that calendar year.

g. (j) For purposes of ~~this section~~ Section 31.0305 the City Manager shall be the final judge of what constitutes acceptable documentary proof in support of requests for exemption or consolidation of tax assessments.

~~h. For purposes of this section, the following definitions shall apply:~~

~~"Apartment house" or "flat dwelling" means a building arranged in separate units, each unit containing a kitchen and a bathroom, designed to house several families living independently of one another.~~

~~"Condominium" means the same thing as "single family dwelling."~~

~~"Costs of the premises" means those payments~~

~~related to mortgage, taxes, insurance, and condominium or homeowners association fees.~~

~~"Duplex" or "two family dwelling" means a detached building, containing not more than two kitchens, designed to house two families living independently of each other.~~

~~"Dwelling unit" means a building or part of a building that is used as a home, residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.~~

~~"Immediate family member" means a husband, wife, parent, child, brother, sister, stepchild, adopted child, grandchild, great grandchild, son or daughter-in-law, father or mother-in-law, brother or sister-in-law, grandparent, stepparent, stepbrother or sister, half brother or sister, or if related by blood, uncle, aunt, niece or nephew, or spouse of any of these persons.~~

~~"Lessor" means one who grants a lease.~~

~~"Mobile home" means a large house trailer, designed for year-round living in one place.~~

~~"Multiple family dwelling" means one or more related dwelling units situated on one and the same lot or parcel of land that has been zoned for multiple family dwellings, designed to house three or more families living independently of each other.~~

~~"Owner" means a person who holds legal title to property.~~

~~"Owner lessor" means an owner (as defined herein) who grants a lease.~~

~~"Rent" means consideration exchanged for use, occupation or enjoyment of property.~~

~~"Rental complex" means two or more related dwelling units, designed to house two or more families living independently of one another, which units are owned and operated under one and the same ownership and which cannot be bought, sold, transferred, exchanged, traded, quitclaimed, deeded, willed, or in any way released independently of one another.~~

~~"Rental unit" means a dwelling unit occupied, with the consent of the owner, by a person who does not own that dwelling unit.~~

~~"Single family dwelling" means a building or part of a building designed to house not more than one family, including all necessary employees of such family.~~

MKJ:mb
06/22/93
06/25/93 Corr.
Dept:Treas.
so-93-203

Passed and adopted by the Council of The City of San Diego on SEP 28 1993
 by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
John Hartley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
George Stevens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Behr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Valerie Stallings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Juan Vargas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Susan Golding	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

(Seal)

SUSAN GOLDING
 Mayor of The City of San Diego, California.

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

By Mary Cepeda, 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 06 1993, and on SEP 28 1993

~~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.

(Seal)

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

By Mary Cepeda, Deputy.

Office of the City Clerk, San Diego, California	
Ordinance Number <u>0-17993</u>	Adopted <u>SEP 28 1993</u>

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93 JUL 14 AM 9:46
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SAN DIEGO, CA

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CERTIFICATE OF PUBLICATION

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SAN DIEGO, CALIF.

OFFICE OF THE CITY CLERK
CITY ADMINISTRATION BUILDING
202 C STREET
2ND FLOOR
SAN DIEGO, CA 92101

IN THE MATTER OF

NO.

AN ORDINANCE AMENDING CHAPTER III, ARTICLE 1, DIVISION...

I, Corey Donahue, 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 O-17993 (NEW SERIES)
AN ORDINANCE AMENDING CHAPTER III, ARTICLE 1, DIVISION 3, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 31.0305 RELATING TO BUSINESS TAXES.
This change to the hotel/motel business tax was made as part of the Mayor and Council's "pro-business" reforms.
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 JUL 06 1993
Passed and adopted by the Council of the City of San Diego on SEP 28 1993.
AUTHENTICATED BY: SUSAN GOLDING
Mayor of The City of San Diego, CA
CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, CA
SEAL
By MARY CEPEDA, Deputy
Pub. Oct. 12 279420

ORDINANCE NUMBER O-17993 (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:

OCT. 12

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

Dated at San Diego, California this 12th day of OCT., 1993.

Corey Donahue

(Signature)

2" x 2 = \$ 58.00