

(O-94-119 REV. 1)

ORDINANCE NUMBER O-18078 (NEW SERIES)

ADOPTED ON JUNE 20, 1994

AN ORDINANCE AMENDING CHAPTER III, ARTICLE 5, DIVISION 1, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 35.0101, 35.0102, 35.0103, 35.0104, 35.0105, 35.0106, 35.0107, 35.0111, 35.0112, 35.0114, 35.0128, 35.0129, 35.0130, 35.0131 AND 35.0132; AND ADDING bSECTIONS 35.0108, 35.0110 AND 35.0133 RELATING TO 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 35.0101, 35.0102, 35.0103, 35.0104, 35.0105, 35.0106 and 35.0107 to read as follows:

SEC. 35.0101 Purpose and Intent

(a) It is the purpose and intent of the City Council that there shall be imposed a tax on Transients.

(b) The proceeds of the tax shall be used for promoting the City of San Diego, including the planning, construction, maintenance and operation of tourist-related cultural, recreational and convention facilities, as more particularly set forth in Chapter III, Article 5, Division 1, and for those additional general governmental purposes as more particularly set forth in

Chapter III, Article 5, Division 1, as the City Council may from time to time provide in accordance with the Charter of the City and the City Council's appropriation ordinance.

SEC. 35.0102 Definitions

The following definitions are applicable to Chapter III, Article 5, Division 1:

"Campground" means any park or real property where a Person may locate a tent, trailer, tent trailer, pick-up, camper, or other similar temporary structure for the purpose of lodging, dwelling, or sleeping, whether or not water, electricity, or sanitary facilities are provided.

"Collected" means the time at which Rent is earned if an Operator uses the accrual basis of accounting, or the time at which Rent is received if an Operator uses the cash basis of accounting.

"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.

"Occupancy" means the use or possession, or the right to the use or possession, of any

room, or portion thereof, in any Hotel, or space in a Recreational Vehicle Park, or Campground for dwelling, lodging, or sleeping purposes.

"Operator" means the Person who is the proprietor of the Hotel, Recreational Vehicle Park, or Campground, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity.

"Operator" includes a managing agent, a resident manager, or a resident agent, of any type or character, other than an employee without management responsibility.

"Recreational vehicle" means any passenger vehicle, house car, trailer coach, camper, or camper trailer as defined in California Vehicle Code sections 242, 243, 362, 465, or 635, or California Health and Safety Code section 18010.

"Recreational Vehicle Park" means any park or location where a Recreational Vehicle may be parked for the purposes of lodging, dwelling, or sleeping, whether or not water, electricity, or sanitary hookup facilities are provided. A "Recreational Vehicle Park" may include a Campground.

"Rent" means the total consideration charged to the Transient as shown on the guest receipt for the Occupancy of a room, or portion thereof, in a Hotel, or space in a Recreational Vehicle Park or Campground.

"Rent" includes charges for utility and sewer hookups, equipment (such as rollaway beds, cribs and television sets, and similar items), and in-room services (such as movies and other services not subject to California taxes), valued in money, whether received or to be received in money, goods, labor, or otherwise. "Rent" includes all receipts, cash, credits, property, and services of any kind or nature without any deduction therefrom.

"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 (1) month. A month is defined as the period of consecutive days from the first calendar day of Occupancy in any month to the same calendar day in the next month following, or the last day of the next month following if no corresponding calendar day exists.

SEC. 35.0103 Tax Imposed

For the privilege of Occupancy in any Hotel located in The City of San Diego, each Transient is subject to and shall pay a tax in the amount of six percent (6%) of the Rent charged by the Operator.

SEC. 35.0104 Additional Tax Imposed

Notwithstanding the tax imposed by Section 35.0103 and in addition thereto, commencing on January 1, 1985, for the privilege of Occupancy in any Hotel, each Transient is subject to and shall pay an additional tax in the amount of one percent (1%) of the Rent charged by the Operator.

SEC. 35.0105 Additional Tax Imposed

Notwithstanding the tax imposed by Section 35.0103 or 35.0104 and in addition thereto, commencing on August 1, 1988, for the privilege of Occupancy in any Hotel, each Transient is subject to and shall pay an additional tax in the amount of one percent (1%) of the Rent charged by the Operator.

SEC. 35.0106 Additional Tax Imposed

Notwithstanding the tax imposed by Section 35.0103, 35.0104, or 35.0105 and in addition thereto, commencing on June 1, 1989, for the privilege of Occupancy in any Hotel,

each Transient is subject to and shall pay an additional tax in the amount of one percent (1%) of the Rent charged by the Operator.

SEC. 35.0107 Recreational Vehicle Park and Campground User Tax Imposed

Commencing on September 1, 1990, for the privilege of Occupancy in any Recreational Vehicle Park or a Campground, each Transient is subject to and shall pay a tax in the amount of nine percent (9%) of the Rent charged by the Operator.

Section 2. That Chapter III, Article 5, Division 1, of the San Diego Municipal Code be and the same is hereby amended by adding Sections 35.0108 and 35.0110, to read as follows:

SEC. 35.0108 Additional Tax Imposed

Notwithstanding the tax imposed by Sections 35.0103, 35.0104, 35.0105, 35.0106, or 35.0107 and in addition thereto, commencing on August 1, 1994, for the privilege of Occupancy in any Hotel, any Recreational Vehicle Park, or any Campground, each Transient is subject to and shall pay an additional tax in the amount of one and one half percent (1.5%) of the Rent charged by the Operator.

SEC. 35.0110 Tax as Debt; Time and Manner of Payment

(a) Any tax imposed pursuant to Chapter III, Article 5, Division 1, constitutes a

debt owed by each Transient to the City which is extinguished only by payment to the Operator or to the City.

(b) Each Transient shall pay any tax imposed pursuant to Chapter III, Article 5, Division 1, to the Operator of the Hotel, the Recreational Vehicle Park, or the Campground at the time Rent is paid.

(c) If Rent is paid in installments, a proportionate share of the tax shall be paid by each Transient with each installment.

(d) The unpaid tax shall be due upon each Transient's ceasing to occupy a room, or portions thereof, in a Hotel, or space in a Recreational Vehicle Park or a Campground.

(e) If for any reason the tax due is not paid by the Transient to the Operator of the Hotel, the Recreational Vehicle Park, or the Campground, the City Treasurer may require that the tax be paid directly to the City Treasurer.

Section 3. That Chapter III, Article 5, Division 1, of the San Diego Municipal Code be and the same is hereby amended by amending Sections 35.0111, 35.0112, 35.0114, 35.0128, 35.0129, 35.0130, 35.0131 and 35.0132, to read as follows:

SEC. 35.0111 Exemptions

(a) No tax shall be due or collected pursuant to Chapter III, Article 5, Division

1, in the following cases:

(1) when the Transient has exercised Occupancy or was entitled to Occupancy for one month or more;

(2) when the total space rental charge at a Campground or Recreational Vehicle Park or the room rental charge in a Hotel is twenty dollars (\$20.00) a day or less, or the accommodations rented are in a dormitory and the total Rent for each Transient is twenty dollars (\$20.00) a day or less; or

(3) when the Transient is by treaty, or federal law, or state law exempt from payment of transient occupancy taxes; or

(4) when Hotel Rents are directly paid by the United States Government or the State of California or their respective instrumentalities. This exemption does not exempt a Transient who is employed by an exempt entity from payment of the tax when the payment is later to be reimbursed by the entity.

(b) Any Person who occupies a room, or any portion thereof, in a Hotel, or space in a Recreational Vehicle Park or Campground, or is entitled to Occupancy thereof, for a period of one (1) month or more, shall be deemed not to have been a Transient with respect to the first month

of Occupancy or entitlement to Occupancy.

SEC. 35.0112 Operator's Duties and Accounting Procedures

(a) Each Operator shall collect the tax imposed by Chapter III, Article 5, Division 1, to the same extent and at the same time as the Rent is collected from every Transient.

(b) If an Operator collects the Rent but fails to collect the tax imposed by Chapter III, Article 5, Division 1, for any reason, the City shall require the Operator to pay the tax.

(c) The amount of tax charged each Transient shall be separately stated from the amount of the Rent charged, and each Transient shall receive a receipt for payment from the Operator.

(d) A duplicate of the receipt given to each Transient shall be kept by the Operator in accordance with Section 35.0121.

(e) No Operator of a Hotel, a Recreational Vehicle Park, or a Campground shall advertise or state in any manner, whether directly or indirectly, that the tax charged pursuant to Chapter III, Article 5, Division 1, 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.

(f) Each Operator shall account separately for, and maintain separate monthly summary totals for, taxable and nontaxable Rents and for taxes collected.

(g) Each Operator shall maintain its financial and accounting records in accordance with established accounting principles acceptable to the City Treasurer.

(h) The costs of additional goods and services, which are not Rent, but which may be sold as a package, or are complimentary with a room, or portion thereof, in a Hotel, or a space in a Recreational Vehicle Park or Campground (such as golf, tennis, meals), shall be accounted for in accordance with any administrative rules and regulations promulgated by the City Treasurer.

SEC. 35.0114 Remitting and Reporting

(a) Each Operator shall remit monthly the full amount of taxes collected for the previous month with the appropriate approved return form available from the City Treasurer.

(b) Returns and taxes remitted monthly by an Operator and actually received by the City Treasurer on or before the last day of the following month shall be deemed timely filed and remitted; otherwise, the taxes are

delinquent and subject to the penalties imposed by Section 35.0116.

(c) Returns shall be made by each Operator on a calendar month basis unless a reporting basis other than a calendar month reporting period is approved. An Operator that desires to utilize a reporting period other than a calendar month reporting period must request and obtain written approval from the City Treasurer prior to the implementation of such reporting plan.

(d) Each Operator reporting on a calendar month basis shall submit, on or before the last day of the following month, a return on the appropriate approved forms to the City Treasurer of the total taxable Rents charged and the amount of tax collected for the previous month and the balance of the tax due. At the time the return is filed, the full amount of the balance of the tax due shall be remitted to the City Treasurer.

(e) Each Operator reporting on an approved basis other than a calendar month basis shall submit, on or before the same day of the next month following the close of such reporting period, or on the last day of that month if no corresponding calendar day exists, a return on the appropriate approved

forms to the City Treasurer of the total taxable Rents charged and the amount of tax collected for the month and the balance of the tax due. At the time the return is filed, the full amount of the balance of the tax due shall be remitted to the City Treasurer.

(f) Returns filed and taxes remitted by mail shall be deemed timely filed only if the envelope or similar container enclosing the returns and 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 and remitting without penalty. If the 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 and remittance are timely.

(g) All taxes collected by an Operator pursuant to Chapter III, Article 5, Division 1, shall be held in trust for the account of the City until payment thereof is made to the City Treasurer.

(h) All returns and payments submitted by each Operator shall be treated as confidential by the City Treasurer and shall

not be released 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.

(i) The same basis for accounting used by an Operator for keeping books and records shall be used for reporting and remitting.

SEC. 35.0128 Utilization of Revenues from Tax Imposed by Section 35.0103

All revenues collected pursuant to the tax imposed by the City under Section 35.0103 shall be utilized as follows:

(a) Two-thirds (2/3) of all revenues collected by the City and remaining after payment of two-thirds (2/3) of the costs incurred in the administration of Chapter III, Article 5, Division 1 shall be deposited in the Transient Occupancy Tax Fund and used solely for the purpose of promoting the City.

(b) One-sixth (1/6) of all revenues collected by the City and remaining after payment of one-sixth (1/6) of the costs incurred in the administration of Chapter III, Article 5, Division 1 shall be deposited in the Transient Occupancy Tax Fund. Money shall be expended from this fund only by an ordinance appropriating part or all of the

fund for any purpose the City Council may direct, including, but not limited to, promotion of the City.

(c) One-sixth (1/6) of all revenues collected by the City and remaining after payment of one-sixth (1/6) of the costs incurred in the administration of Chapter III, Article 5, Division 1 shall be deposited in the General Fund. An annual allocation, as determined by the City Council, from revenues collected pursuant to the tax imposed by the City under Section 35.0103 may be deposited in the Housing Trust Fund of the City.

**SEC. 35.0129 Utilization of Revenues from
Additional Tax Imposed by
Section 35.0104**

All revenues collected pursuant to the tax imposed by the City under Section 35.0104 shall be deposited in the General Fund of the City and be used for general governmental purposes as the City Council may from time to time provide in accordance with the Charter of the City of San Diego and the City Council's appropriation ordinance.

**SEC. 35.0130 Utilization of Revenues from Additional
Tax Imposed by Section 35.0105**

All revenues collected pursuant to the tax imposed by the City under Section 35.0105

shall be deposited in the General Fund of the City and be used for general governmental purposes as the City Council may from time to time provide in accordance with the Charter of the City of San Diego and the City Council's appropriation ordinance.

SEC. 35.0131 Utilization of Revenues from Additional Tax Imposed by Section 35.0106

All revenues collected pursuant to the tax imposed by the City under Section 35.0106 shall be deposited in the General Fund of the City and be used for general governmental purposes as the City Council may from time to time provide in accordance with the Charter of the City of San Diego and the City Council's appropriation ordinance.

SEC. 35.0132 Utilization of Revenues From Tax Imposed by Section 35.0107

All revenues collected pursuant to the tax imposed by the City under Section 35.0107 shall be deposited in the General Fund of the City and be used for general governmental purposes as the City Council may from time to time provide in accordance with the Charter of the City of San Diego and the City Council's appropriation ordinance.

Section 4. That Chapter III, Article 5, Division 1, of the San Diego Municipal Code be and the same is hereby amended by adding Section 35.0133, to read as follows:


**SEC. 35.0133 Utilization of Revenues From
Tax Imposed by Section 35.0108**

All revenues collected pursuant to the tax imposed by the City under Section 35.0108 shall be deposited in the General Fund of the City and be used for general governmental purposes as the City Council may from time to time provide in accordance with the Charter of the City of San Diego and the City Council's appropriation ordinance.

Section 5. 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



Kelly J. Salt
Deputy City Attorney

KJS:jrl
06/02/94
06/07/94 REV. 1
10/17/94 COR. PAGE
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OLD LANGUAGE - ~~STRIKEOUT~~
NEW LANGUAGE - ~~SHADED~~

ORDINANCE NUMBER O-_____ (NEW SERIES)

ADOPTED ON _____

AN ORDINANCE AMENDING CHAPTER III, ARTICLE 5, DIVISION 1, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 35.0101, 35.0102, 35.0103, 35.0104, 35.0105, 35.0106, 35.0107, 35.0111, 35.0112, 35.0114, 35.0128, 35.0129, 35.0130, 35.0131 AND 35.0132; AND ADDING SECTIONS 35.0108, 35.0110 AND 35.0133 RELATING TO TRANSIENT OCCUPANCY TAX.

SEC. 35.0101 ~~Title and Purpose and Intent~~

~~a. Title. This article shall be known as the Transient Occupancy Tax Ordinance of The City of San Diego.~~

~~b. (a) Purpose and Intent. It is the purpose and intent of the City Council that there shall be imposed on transient occupants of hotel rooms in the City of San Diego a tax, a tax on Transients.~~

~~(b) Some of the proceeds of which are to the tax on Transients shall be used for promoting the City of San Diego, including the planning, construction, maintenance and operation of tourist-related cultural, recreational and convention facilities, as more particularly set forth in Chapter III, Article 5, Division 1, and for those additional purposes set forth in Section~~

~~35.0128 of this article. general governmental purposes as more particularly set forth in Chapter III, Article 5, Division 1, as the City Council may from time to time provide in accordance with the Charter of the City and the City Council's appropriation ordinance.~~

~~e. It is the further purpose and intent of the Council that there be imposed on transient occupants of recreational vehicle park spaces and campgrounds in the City of San Diego a tax, the proceeds of which are to be used for these additional purposes set forth in Section 35.0132 of this article.~~

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.~~

~~e. 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 or space in a recreational vehicle park or campground 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 less than one month. A month is defined as the period of consecutive days from the first calendar day of occupancy in any month to the same calendar day in the next month following or the last day of the next month following if no corresponding calendar day exists. Any person who in fact exercises occupancy or in fact is entitled to occupancy for a period of one month or more shall be deemed not to have been a transient with respect to the first month of occupancy or entitlement to occupancy.~~

~~e. Rent. "Rent" means the total consideration charged to the transient as~~

~~shown on the guest receipt for the occupancy of space in a recreational vehicle park, campground or hotel. It includes charges for utility and sewer hookups, equipment, (such as rollaway beds, cribs and television sets, etc.), and in-room services (such as movies and other services not subject to California taxes), valued in money, whether received or to be received in money, goods, labor or otherwise. It shall include all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. The costs of additional goods and services, which are not "rent," but which may be sold as a package with a room or space (such as golf, tennis, meals, etc.), must be accounted for in accordance with rules and regulations promulgated by the City Treasurer.~~

~~f. Collected. "Collected" means the time at which the rent is earned if operator uses the accrual basis of accounting or the time at which the rent is received if operator uses the cash basis of accounting. The same basis of accounting used for keeping the books and records shall be used for reporting and remitting.~~

~~g. Operator. "Operator" means the person~~

~~who is the proprietor of the hotel,
recreational vehicle park or campground,
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 (including a resident manager or
resident agent) of any type or character
other than an employee without management
responsibility, the managing agent shall also
be deemed an operator for the purposes of
this article and shall have the same duties
and be subject to the same liabilities, both
civil and criminal, as his principal. Except
as provided in section 35.0124(g), compliance
with the provisions of this article by either
the principal or the managing agent shall,
however, be considered to be compliance by
both.~~

~~h. New Convention Facility. "New
Convention Facility" means a downtown
convention center and related facilities
located on the Navy Field Complex, separate
and apart from the existing Convention and
Performing Arts Center. The name for said New
Convention Facility is the San Diego
Convention Center.~~

~~i. Navy Field Complex. "Navy Field~~

~~Complex" means that property bounded on the south by San Diego Bay, on the north by Harbor Drive, on the east by Fifth Avenue extended, and on the west by Kettner Boulevard extended.~~

~~j. Recreational Vehicle Park.~~

~~"Recreational vehicle park" means any park or location where a recreational vehicle may be parked for the purposes of human habitation, whether or not water, electricity or sanitary hookup facilities are provided. The inclusion of an area for a "campground" within a recreational vehicle park shall not affect its status.~~

~~k. Campground. "Campground" means any park or location where a person may pitch a tent or similar temporary structure for the purposes of overnight lodging, whether or not toilet or shower facilities are provided.~~

~~l. Recreational Vehicle. "Recreational vehicle" means and includes any passenger vehicle, house car, trailer coach or camp trailer, as defined in California Vehicle Code sections 242, 362, 465 or 635.~~

~~The following definitions are applicable to Chapter III, Article 5, Division 1:~~

~~"Campground" means any park or real property where a Person may locate a tent,~~

trailer, tent trailer, pick-up, camper, or other similar temporary structure for the purpose of lodging, dwelling, or sleeping, whether or not water, electricity, or sanitary facilities are provided.

"Collected" means the time at which Rent is earned if an Operator uses the accrual basis of accounting, or the time at which Rent is received if an Operator uses the cash basis of accounting.

"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.

"Occupancy" means the use or possession, or the right to the use or possession, of any room, or portion thereof, in any Hotel, or space in a Recreational Vehicle Park, or Campground for dwelling, lodging, or sleeping purposes.

"Operator" means the Person who is the proprietor of the Hotel, Recreational Vehicle Park, or Campground, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity.

"Operator" includes a managing agent, a resident manager, or a resident agent, of any type or character, other than an employee without management responsibility.

"Recreational Vehicle" means any passenger vehicle, house car, trailer coach, camper, or camper trailer as defined in California Vehicle Code sections 242, 243, 362, 465, 635, or California Health and Safety Code section 18010

"Recreational Vehicle Park" means any park or location where a Recreational Vehicle may be parked for the purposes of lodging, dwelling, or sleeping, whether or not water, electricity, or sanitary hookup facilities are provided. A "Recreational Vehicle Park" may include a Campground.

"Rent" means the total consideration charged to a Transient as shown on the guest receipt for the Occupancy of a room, or portion thereof, in a Hotel, or space in a Recreational Vehicle Park or Campground.

"Rent" includes charges for utility and sewer hookups, equipment (such as rollaway beds, cribs and television sets, and similar items), and in-room services (such as movies and other services not subject to California taxes), valued in money, whether received or

to be received in money, goods, labor, or otherwise. "Rent" includes all receipts, cash, credits, property, and services of any kind or nature without any deduction therefrom.

"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 (1) month. A month is defined as the period of consecutive days from the first calendar day of Occupancy in any month to the same calendar day in the next month following, or the last day of the next month following if no corresponding calendar day exists.

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.~~

~~For the privilege of Occupancy in any Hotel located in The City of San Diego, each Transient is subject to and shall pay a tax in the amount of six percent (6%) of the Rent charged by the Operator.~~

SEC. 35.0104 Additional Tax Imposed

~~Notwithstanding the tax imposed by Section 35.0103 above and in addition thereto, commencing on January 1, 1985 for the privilege of occupancy in any hotel, each transient is subject to and shall pay an additional tax in the amount of one percent (1%) 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.~~

~~Notwithstanding the tax imposed by Section 35.0103 and in addition thereto, commencing on January 1, 1985, for the privilege of Occupancy in any Hotel, each Transient is subject to and shall pay an additional tax in the amount of one percent (1%) of the Rent charged by the Operator.~~

SEC. 35.0105 Additional Tax Imposed

~~Notwithstanding the tax imposed by Section 35.0103 or 35.0104 above and in addition thereto, commencing on August 1, 1988 for the privilege of occupancy in any hotel, each transient is subject to and shall pay an additional tax in the amount of one percent (1%) 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.~~

~~Notwithstanding the tax imposed by Sections 35.0103 or 35.0104 and in addition thereto, commencing on August 1, 1988, for the privilege of Occupancy in any Hotel, each Transient is subject to and shall pay an additional tax in the amount of one percent (1%) of the Rent charged by the Operator.~~

SEC. 35.0106 Additional Tax Imposed

~~Notwithstanding the tax imposed by Section 35.0103, 35.0104 or 35.0105 above and in addition thereto, commencing on June 1, 1989 for the privilege of occupancy in any hotel, each transient is subject to and shall pay an additional tax in the amount of one percent (1%) 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.~~

~~Notwithstanding the tax imposed by Sections 35.0103, 35.0104, or 35.0105 and in addition thereto, commencing on June 1, 1989, for the privilege of Occupancy in any Hotel, each Transient is subject to and shall pay an additional tax in the amount of one percent (1%) of the Rent charged by the Operator.~~

SEC. 35.0107 Recreational Vehicle Park and Campground User Tax Imposed

~~Commencing on September 1, 1990, for the privilege of occupancy in any recreational vehicle park or campground space, each transient is subject to and shall pay a tax in the amount of nine percent (9%) 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 recreational vehicle park or~~

~~campground at the time rent is paid. 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 recreational vehicle park or campground. If for any reason the tax is not paid to the operator of the recreational vehicle park or campground, the City Treasurer may require that such tax shall be paid directly to the City Treasurer.~~

Commencing on September 1, 1990, for the privilege of Occupancy in any Recreational Vehicle Park or a Campground, each Transient is subject to and shall pay a tax in the amount of nine percent (9%) of the Rent charged by the Operator.

SEC. 35.0108 Additional Tax Imposed

Notwithstanding the tax imposed by Sections 35.0103, 35.0104, 35.0105, 35.0106, or 35.0107 and in addition thereto, commencing on August 1, 1994, for the privilege of Occupancy in any Hotel, any Recreational Vehicle Park, or any Campground, each Transient is subject to and shall pay an additional tax in the amount of one and one half percent (1.5%) of the Rent charged by the Operator.

SEC. 35.0110 Tax as Debt; Time and Manner of Payment

(a) Any tax imposed pursuant to Chapter III, Article 5, Division 1, constitutes a debt owed by each Transient to the City which is extinguished only by payment to the Operator or to the City.

(b) Each Transient shall pay any tax imposed pursuant to Chapter III, Article 5, Division 1, to the Operator of the Hotel, the Recreational Vehicle Park, or the Campground at the time Rent is paid.

(c) If Rent is paid in installments, a proportionate share of the tax shall be paid by each Transient with each installment.

(d) The unpaid tax shall be due upon each Transient's ceasing to occupy a room, or portions thereof, in a Hotel, or space in a Recreational Vehicle Park or a Campground.

(e) If for any reason the tax due is not paid by the Transient to the Operator of the Hotel, the Recreational Vehicle Park, or the Campground, the City Treasurer may require that the tax be paid directly to the City Treasurer.

SEC. 35.0111 Exemptions

(a) No tax shall be due or collected pursuant to Chapter III, Article 5, Division 1, in the following cases:

~~(a)~~(1) When the transient has exercised occupancy or was entitled to occupancy for one month or more;

~~(b)~~(2) When the total space rental charge at a campground or recreational vehicle park or the room rental charge in a hotel rent is twenty dollars (\$20.00) a day or less, or the accommodations rented are in a dormitory and the total Rent for each Transient is twenty dollars (\$20.00) a day or less; or

~~(c)~~(3) When the Transient is by treaty, or federal law, or state law exempt from payment of transient occupancy taxes; or

~~(d)~~(4) When Hotel Rents are directly paid by the United States Government or the State of California or their respective instrumentalities. This exemption does not exempt a Transient who is employed by an exempt entity from payment of the tax when the payment is later to be reimbursed by the entity.

(b) Any Person who occupies a room, or any portion thereof, in a Hotel, or space in a Recreational Vehicle Park or Campground, or is entitled to occupancy thereof, for a period of one (1) month or more, shall be deemed not to have been a Transient with respect to the first month

of Occupancy or entitlement to Occupancy.

SEC. 35.0112 Operator's Duties and Accounting Procedures

(a) Each operator shall collect the tax imposed by this Article Chapter III, Article 5, Division 1, to the same extent and at the same time as the rent is collected from every transient.

(b) If the an operator collects the rent but fails to collect the tax imposed by this Article Chapter III, Article 5, Division 1, for any reason, the City shall require the operator to pay such the tax.

(c) The amount of tax charged each transient shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator.

(d) A duplicate of this the receipt given to each transient shall be kept by the operator in accordance with Section 35.0121.

(e) No operator of a hotel, a Recreational Vehicle Park, or a Campground shall advertise or state in any manner, whether directly or indirectly, that the tax charged pursuant to Chapter III, Article 5, Division 1, 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.

(f) Each operator shall account separately for, and maintain separate monthly summary totals for, taxable and nontaxable rents and for taxes collected. Taxable rents are those defined in Section 35.0102.

~~b) (g) The Each operator shall maintain its financial and accounting records in accordance with established accounting principles acceptable to the City Treasurer. In the event the operator offers paid packages or complimentary services to guests, the charges shall be accounted for in accordance with the rules and regulations promulgated by the City Treasurer.~~

(h) The costs of additional goods and services, which are not Rent, but which may be sold as a package, or are complimentary with a room, or portion thereof, in a Hotel, or a space in a Recreational Vehicle Park or Campground (such as golf, tennis, meals), shall be accounted for in accordance with any administrative rules and regulations promulgated by the City Treasurer.

SEC. 35.0114 Remitting and Reporting

(a) All Each operators shall remit monthly the full amount of taxes collected for the previous month with the appropriate

approved return form available from the City Treasurer.

(b) Returns and taxes remitted monthly by an Operator and actually received by the City Treasurer on or before the last day of the following month shall be deemed timely filed and remitted; otherwise, the taxes are delinquent and subject to the penalties imposed by Section 35.0116.

(c) Returns shall be made by each Operator on a calendar month basis unless a reporting basis other than a calendar month reporting period is approved. An Operator that desires to utilize a reporting period other than a calendar month reporting period must request and obtain written approval from the City Treasurer prior to the implementation of such reporting plan.

~~(a)(d) Calendar Month.~~ Each Operator reporting on a calendar month basis shall submit, on or before the last day of the following month, make a return on the appropriate approved forms to the City Treasurer on approved forms of the total taxable rents charged and the amount of tax collected for the previous month and the balance of the tax due. At the time the return is filed, the full amount of the

balance of the tax due shall be remitted to the City Treasurer.

~~(b) (e) Other Approved Reporting Periods.~~ Each operator reporting on an approved basis other than a calendar month basis shall submit, on or before the same day of the next month following the close of such reporting period, or on the last day of that month if no corresponding calendar day exists, make a return on the appropriate approved forms to the City Treasurer on approved forms of the total taxable rents charged and the amount of tax collected for the month and the balance of the tax due. At the time the return is filed, the full amount of the balance of the tax due shall be remitted to the City Treasurer.

~~(e) (f) Timely Returns.~~ Returns filed and taxes remitted by mail shall be deemed timely filed only if the envelope or similar container enclosing the returns and 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 and remitting without penalty. If such the 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 and remittance are timely.

~~(d)~~ (g) All taxes collected by an Operator pursuant to ~~this Article Chapter III, Article 5, Division 1,~~ shall be held in trust for the account of the City until payment thereof is made to the City Treasurer.

~~(e)~~ (h) All returns and payments submitted by each Operator shall be treated as confidential by the City Treasurer and shall not be released 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.

(i) The same basis for accounting used by an Operator for keeping books and records shall be used for reporting and remitting.

SEC. 35.0128 Utilization of Revenues from Tax Imposed by Section 35.0103

~~a. The tax imposed shall be utilized as follows:—~~

~~(1) Two thirds (2/3) of all revenues collected by the City under Section 35.0103 of this Article and remaining after payment~~

0- 18078

~~of two-thirds (2/3) of the costs incurred in the administration of this Article shall be used solely for the purpose of promoting The City of San Diego. Revenues available under this subparagraph (a) shall be used to support any program including but not limited to programs of the San Diego Convention and Visitors Bureau, designed to promote the City, as the Council may direct in accordance with Section 35.0128(d) below.~~

~~(2) One-sixth (1/6) of all revenue collected by the City under Section 35.0103 of this Article and remaining after payment of one-sixth (1/6) of the costs in the administration of this Article, shall be deposited to the Transient Occupancy Tax Unappropriated Reserve Fund (Fund No. 224), which is hereby created. Money shall be expended from this fund only by an ordinance appropriating part or all of the fund for such purpose or purposes as the Council may direct. Such purpose or purposes may include but not be limited to promotion of the City. Notwithstanding the provisions of paragraph A regarding utilization of revenues, the revenues allocated in this Section under paragraph A, subparagraphs (a), (b), (c), (d) and (e) shall be limited to the amounts~~

~~collected under Section 35.0103 in the Base Year plus an amount equal to one half of the amount of the increment over and above the amount collected in the Base Year. For purposes of this Section, fiscal year 1990 will serve as the Base Year.~~

~~(3) One sixth (1/6) of all revenue collected by the City under Section 35.0103 of this Article and remaining after payment of one sixth (1/6) of the costs in the administration of this Article, shall be deposited to the General Fund (Fund No. 100). An annual allocation, as determined by the City Council, from revenues collected by the City under Section 35.0103 shall be deposited in the Housing Trust Fund of the City (Fund No. 10420).~~

~~(4) Subject to the City Council's annual review of the budget of the San Diego Convention and Visitors Bureau and five year work program as set forth below, the City's minimum annual contribution to the San Diego Convention and Visitors Bureau for general promotion purposes shall be determined as follows:~~

~~(i) From the total of all revenues collected under Section 35.0103 of this Article subtract all costs incurred in the~~

~~administration of this Article, and an amount equal to all revenues collected by the City under Section 35.0103 of this Article from hotels within the Navy Field Complex.—~~

~~(ii) Multiply the remaining amount computed in subparagraph (d) (1) immediately preceding by one fifth (1/5). The resulting figure is the minimum annual contribution; provided however, that if the City Council in its sole discretion for any year, formally disapproves by resolution the San Diego Convention and Visitors Bureau's annual budget and five year work program, the City's annual contribution to the San Diego Convention and Visitors Bureau may be established by the City Council based upon the Council's determination of any appropriate funding level.—~~

~~(iii) To substantiate its proposed five year work program, the San Diego Convention and Visitors Bureau shall, each year, timely submit to the City Council a copy of its proposed work program, an annual proposed budget, quantified performance indicators which are descriptive of the level of effort and success of previous years' promotion efforts, and a full narrative description of past years' accomplishments.—~~

~~(5) Notwithstanding the provisions of subparagraphs (a), (b), (c) and (d) of this section regarding utilization of revenues, an amount equal to all revenues collected by the City under Section 35.0103 of this Article from hotels within the Navy Field Complex remaining after payment of a proportionate share of the costs in the administration of this Article, shall first be allocated for the purpose of planning, promoting, operating and maintaining the San Diego Convention Center, including a contingency reserve (for these same purposes), by a transfer to the existing Transient Occupancy Tax New Convention Facility Fund. Money remaining under this section, after providing for the planning, promotion, operation and maintenance of the San Diego Convention Center, including a contingency reserve, may be expended for such legal purpose or purposes as the Council may direct.~~

~~(6) When the tax imposed pursuant to this Article was eight percent (8%), one-fourth (1/4) of all revenue collected during said period, less administrative costs, was deposited in the Transient Occupancy Tax New Convention Facility Fund. These monies may be expended for such legal~~

~~purpose or purposes as the Council may direct.~~

All revenues collected pursuant to the tax imposed by the City under Section 35.0103 shall be utilized as follows:

(a) Two-thirds (2/3) of all revenues collected by the City and remaining after payment of two-thirds (2/3) of the costs incurred in the administration of Chapter III, Article 5, Division 1 shall be deposited in the Transient Occupancy Tax Fund and used solely for the purpose of promoting the City.

(b) One-sixth (1/6) of all revenues collected by the City and remaining after payment of one-sixth (1/6) of the costs incurred in the administration of Chapter III, Article 5, Division 1 shall be deposited in the Transient Occupancy Tax Fund. Money shall be expended from this fund only by an ordinance appropriating part or all of the fund for any purpose the City Council may direct, including, but not limited to, promotion of the City.

(c) One-sixth (1/6) of all revenues collected by the City and remaining after payment of one-sixth (1/6) of the costs incurred in the administration of Chapter III, Article 5, Division 1 shall be deposited

in the General Fund. An annual allocation, as determined by the City Council, from revenues collected pursuant to the tax imposed by the City under Section 35.0103 may be deposited in the Housing Trust Fund of the City.

SEC. 35.0129 Utilization of Revenues from Additional Tax Imposed by Section 35.0104

All revenues collected pursuant to the tax imposed by the City under Section 35.0104 shall be deposited to in the General Fund of the City ~~(Fund No. 100)~~ and 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 the City Council's appropriation ordinances.

SEC. 35.0130 Utilization of Revenues from Additional Tax Imposed by Section 35.0105

All revenues collected pursuant to the tax imposed by the City under Section 35.0105 shall be deposited to in the General Fund of the City ~~(Fund No. 100)~~ and 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 the City Council's appropriation ordinances.

**SEC. 35.0131 Utilization of Revenues from Additional
Tax Imposed by Section 35.0106**

All revenues collected pursuant to the tax imposed by the City under Section 35.0106 shall be deposited to in the General Fund of the City (~~Fund No. 100~~) and 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 the City Council's appropriation ordinances.

**SEC. 35.0132 Utilization of Revenues From
Tax Imposed by Section 35.0107**

All revenues collected pursuant to the tax imposed by the City under Section 35.0107 shall be deposited to in the General Fund of the City (~~Fund No. 100~~) and 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 the City Council's appropriation ordinances.

**SEC. 35.0133 Utilization of Revenues From
Tax Imposed by Section 35.0108**

All revenues collected pursuant to the tax imposed by the City under Section 35.0108 shall be deposited in the General Fund of the City and be used for general governmental purposes as the City Council may from time to

time provide in accordance with the Charter
of the City of San Diego and the City
Council's appropriation ordinance.

Passed and adopted by the Council of The City of San Diego on JUN 20 1994
 by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Harry Mathis	<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"/>
Christine Kehoe	<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"/>
Barbara Warden	<input type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

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

(Seal)

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 JUN 06 1994, and on JUN 20 1994

~~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 Mary Cepeda Deputy.

Office of the City Clerk, San Diego, California	
Ordinance Number <u>0-18078</u>	Adopted <u>JUN 20 1994</u>

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APR 10 1954

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CERTIFICATE OF PUBLICATION

94 JUL -8 AM 11:41

SAN DIEGO, CALIF. P

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

IN THE MATTER OF

NO.

AN ORDINANCE AMENDING CHAPTER III, ARTICLE 5,...

ORDINANCE NUMBER O-18078 (NEW SERIES)

AN ORDINANCE AMENDING CHAPTER III, ARTICLE 5, DIVISION 1, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 35.0101, 35.0102, 35.0103, 35.0104, 35.0105, 35.0106, 35.0107, 35.0111, 35.0112, 35.0114, 35.0128, 35.0129, 35.0130, 35.0131 AND 35.0132; AND ADDING SECTIONS 35.0108, 35.0110 AND 35.0133 RELATING TO TRANSIENT OCCUPANCY TAX.

The proposed ordinance amends several sections of Chapter III, Article 5, Division 1 of the San Diego Municipal Code. These amendments are primarily measures designed to clean up and conform the division to the rest of the Municipal Code. The ordinance also amends the division by adding an additional one and one-half percent (1.5%) to the Transient Occupancy Tax, effective August 1, 1994.

Additional amendments are proposed to simplify the appropriation and allocation of Transient Occupancy Tax funds.

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 June 6, 1994. Passed and adopted by the Council of the City of San Diego on June 20, 1994.

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 City Clerk ...

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-18078 (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:

JULY 1

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

Dated at San Diego, California this 1st day of JULY, 1994.

Corey Donahue
(Signature)

27 1/2" x 2 = \$ 76.80