

ORDINANCE NUMBER O- 19875 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 02 2009

AN ORDINANCE TO AMEND THE SAN DIEGO MUNICIPAL CHAPTER 3, ARTICLE 5, DIVISION 1, BY AMENDING SECTION 35.0128 TO ALLOW FOR THE CITY COUNCIL TO WAIVE THE REQUIREMENT THAT CERTAIN REVENUES COLLECTED AS TRANSIENT OCCUPANCY TAX BE USED SOLELY TO PROMOTE THE CITY.

WHEREAS, San Diego Municipal Code [Code] section 35.0128 requires that two-thirds (2/3) of all revenues collected by the City pursuant to Code section 35.0103 and remaining after paying two-thirds (2/3) of the cost of administering Chapter 3, Article 5, Division 1 of the Code be used solely for the purpose of promoting the City [Special Promotional Funds]; and

WHEREAS, Special Promotional Funds have been used, from time to time, to establish Internal Stabilization Reserves [Internal Stabilization Reserves] in connection with certain bond financings where the debt service payments on such bonds are funded with Special Promotional Funds; and

WHEREAS, such Internal Stabilization Funds are not legally required, are not part of the debt service reserve funds associated with any bonds and are not part of the City's General Fund reserves; and

WHEREAS, the City needs to expend the funds in the Internal Stabilization Funds in Fiscal Year 2010 in order maintain City services and balance the City's Fiscal Year 2010 budget; and

WHEREAS, in order to expend the funds currently in the Internal Stabilization Reserves the Code must be amended to permit the City Council to waive, by a majority vote, the requirement that two-thirds (2/3) of the revenue collected by the City pursuant to Code section 35.0103 be used exclusively for the purpose of promoting the City; NOW, THEREFORE,

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

Section 1. That Chapter 3, Article 5, Division 1 of the San Diego Municipal Code be amended by amending section 35.0128 to read as follows:

§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 3, Article 5, Division 1 shall be deposited in the Transient Occupancy Tax Fund and used solely for the purpose of promoting the City. However, if the City Manager determines that anticipated revenues in any fiscal year will be insufficient to maintain existing City services, the City Manager may ask the City Council to temporarily suspend compliance with this subsection (a) for the upcoming fiscal year. A majority vote of the City Council can temporarily suspend compliance with this subsection (a) for that fiscal year.

(b) One-sixth ($1/6$) of all revenue collected by the City and remaining after payment of one-sixth ($1/6$) of the costs incurred in the administration of Chapter 3, 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 revenue collected by the City and remaining after payment of one-sixth ($1/6$) of the costs incurred in the administration of

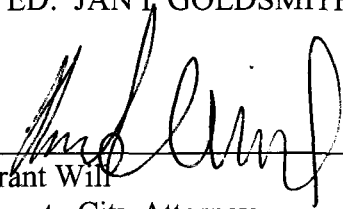
Chapter 3, Article 5, Division 1 shall be deposited to the General Fund. An annual allocation, as determined by the City Council, from revenues collected pursuant to the tax imposed by the City under Section 35.0103 may be deposited in the Housing Trust Fund of the City.

Section 2. That a full reading of this ordinance is dispensed with prior to passage, since a written copy was made available to the City Council and the public prior to the day of passage.

Section 3. This ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Brant Will
Deputy City Attorney

BCW:jdf
06/05/2009
Or.Dept: FM
O-2009-162

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at its meeting of JUN 23 2009.

ELIZABETH S. MALAND
City Clerk

By *Aur Richardon*
Deputy City Clerk

Approved: 7-2-09
(date)

JSL
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor