

**ORDINANCE NO. 08-06**

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF  
THE CITY OF WILDOMAR, CALIFORNIA, ADDING  
CHAPTER 3.04 TO THE WILDOMAR MUNICIPAL CODE  
IMPOSING A DOCUMENTARY TRANSFER TAX**

THE CITY COUNCIL OF THE CITY OF WILDOMAR DOES ORDAIN AS  
FOLLOWS:

**SECTION 1. Recitals.**

- (a) On July 1, 2008, the City of Wildomar became a general law city with the power and duty to enact all local police, sanitary and other ordinances not in conflict with general law, and to provide general law municipal services to the residents of Wildomar.
- (b) The City will incur substantial costs in providing municipal services, parts of which costs can be paid through real property documentary transfer taxes.
- (c) The Local Agency Formation Commission of the County of Riverside has authorized the City to continue the levying and collection of any previously authorized charge, fee, assessment or general or special tax levied within the City by the County or other subject agency, including, but not limited to, transient occupancy taxes, franchise fees, business license fees, property transfer taxes, sales and use taxes, and any taxes assessments, fees or charges by County Service Areas 22, 104 and 142.
- (d) California Revenue and Taxation Code section 11911 authorizes the City to adopt a documentary transfer tax ordinance in accordance with Part 6.7 of Division 2 of the Revenue and Taxation Code.

**SECTION 2. Addition of Chapter 3.04.** Chapter 3.04, "Documentary Transfer Tax," is hereby added to Title 3, "Revenue and Finance," of the Wildomar Municipal Code, and shall read as follows:

"Chapter 3.04

**DOCUMENTARY TRANSFER TAX**

Sections:

- 3.04.010 Short title and authority.
- 3.04.020 Imposition of tax.

- 3.04.030 Persons required to pay.
- 3.04.040 Content of documents submitted for recordation.
- 3.04.050 Mobilehome installed on foundation system.
- 3.04.060 Exemptions.
- 3.04.070 Administration by County.
- 3.04.080 Refunds.

3.04.010 Short title and authority. This chapter is known and may be cited as the "Documentary Transfer Tax Ordinance of the City of Wildomar." It is adopted pursuant to Part 6.7 (commencing with section 11901) of Division 2 of the Revenue and Taxation Code.

3.04.020 Imposition of Tax. A documentary transfer tax is imposed on each deed, instrument or writing by which any lands, tenements or other realty sold within the City shall be granted, assigned, transferred or conveyed to, or vested in, the purchaser or purchasers, or any other person or persons at the direction of the purchaser or purchasers, when the net consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrance remaining thereon at the time of sale) exceeds one hundred dollars (\$100.00), at the rate of twenty-seven and one-half cents (\$0.275) for each five hundred dollars (\$500.00) of net consideration or value, or fractional part thereof.

3.04.030 Persons Required to Pay. Any person who makes, signs or issues any document or instrument subject to the tax, or for whose use or benefit the same is made, signed or issued, shall pay the documentary transfer.

3.04.040 Content of documents submitted for recordation. Pursuant to the authority set forth in Revenue and Taxation Code Section 11911.1, each deed, instrument or writing by which lands, tenements, or other realty is sold, granted, assigned, transferred, or otherwise conveyed, shall have noted upon it the assessor's parcel number(s) and tax rate area number(s). These numbers will be used only for administrative and procedural purposes and will not be proof of title, and in the event of any conflicts, the stated legal description noted upon the document shall govern. The validity of such a document shall not be affected by the fact that the assessor's parcel number(s) or tax rate area number(s) are erroneous or omitted, and there shall be no liability attaching to any person for an error in such numbers or for omission of such numbers.

3.04.050 Mobilehome installed on foundation system. The transfer of any mobilehome installed on a foundation system, pursuant to Section 18551 of the Health and Safety Code, and subject to local property taxation shall be subject to the tax imposed by this chapter.

3.04.060 Exemptions. Exemption from the tax imposed by this chapter may be claimed under the circumstances described in this section. When an exemption from the tax is claimed, a declaration thereof shall be shown on the face of the document to

be recorded, or in a separate document submitted with the document to be recorded, reciting the reason for the exemption as provided herein.

(a) *Conveyances in Dissolution of Marriage.* Any tax imposed by this chapter shall not apply with respect to any deed, instrument or other writing which purports to transfer, divide or allocate community, quasi-community, or quasi-marital property assets between spouses for the purpose of effecting a division of community, quasi-community, or quasi-marital property which is required by a judgment decreeing a dissolution of the marriage or legal separation, by a judgment of nullity, or by any other judgment or order rendered pursuant to the Family Code, or by a written agreement between the spouses, executed in contemplation of any such judgment or order, whether or not the written agreement is incorporated as part of any of those judgments or orders.

(b) *Conveyances to Secure Debt.* The tax imposed by this chapter shall not apply to any instrument in writing given to secure a debt.

(c) *Conveyances to Governmental Entities.* Any deed, instrument or writing to which the United States or any agency or instrumentality thereof, any state or territory, or political subdivision thereof, is a party shall be exempt from any tax imposed by this chapter when the exempt agency is acquiring title.

(d) *Conveyances Under Reorganization or Adjustment Plans.* The tax imposed pursuant to this chapter shall not apply to the making, delivering or filing of conveyances to make effective any plan of reorganization or adjustment that is any of the following:

- (1) Confirmed under the Federal Bankruptcy Act, as amended;
- (2) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in Section 101 of Title 11 of the United States Code, as amended;
- (3) Approved in an equity receivership proceeding in a court involving a corporation, as defined in Section 101 of Title 11 of the United States Code, as amended; or
- (4) Whereby a mere change in identity, form, or place of organization is effected.

Numerals 1 through 4, inclusive, of this subsection shall only apply if the making, delivery or filing of instruments of transfer or conveyances occurs within five years from the date of such confirmation, approval or change.

(e) *Conveyances Under Order of the Securities and Exchange Commission.* The tax imposed by this chapter shall not apply to the making or delivery of conveyances to make effective any order of the Securities and Exchange Commission,

as defined in subdivision (a) of Section 1083 of the Internal Revenue Code of 1954; but only if:

- (1) The order of the Securities and Exchange Commission in obedience to which such conveyance is made recites that such conveyance is necessary or appropriate to effectuate the provisions of Section 79k of Title 15 of the United States Code, relating to the Public Utility Holding Company Act of 1935;
  - (2) Such order specifies the property which is ordered to be conveyed;
  - (3) Such conveyance is made in obedience to such order.
- (f) *Transfer of Certain Partnership Property and Exception to Exemption.*
- (1) In the case of any realty held by a partnership or other entity treated as a partnership for federal income tax purposes, no tax shall be imposed pursuant to this chapter by reason of any transfer of an interest in the partnership or other entity or otherwise if both of the following occur:
    - a. The partnership or other entity treated as a partnership is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1986; and
    - b. The continuing partnership or other entity treated as a partnership continues to hold the realty concerned.
  - (2) If there is a termination of any partnership or other entity treated as a partnership for federal income tax purposes, within the meaning of Section 708 of the Internal Revenue Code of 1986, for purposes of this chapter, such partnership shall be treated as having executed an instrument whereby there was conveyed, for fair market value (exclusive of the value of any lien or encumbrance remaining thereon), all realty held by the partnership or other entity at the time of the termination.
  - (3) Not more than one tax shall be imposed pursuant to this chapter by reason of a termination described in numeral (2) of this subsection, and any transfer pursuant thereto, with respect to the realty held by the partnership or other entity treated as a partnership at the time of such termination.
  - (4) No tax shall be imposed pursuant to this chapter by reason of any transfer between an individual or individuals and a legal entity or between legal entities that results solely in a change in the method of holding title to the realty and in which proportional ownership

interests in the realty, whether represented by stock, membership interest, partnership interest, cotenancy interest, or otherwise, directly or indirectly, remain in the same immediately after the transfer.

(g) *Conveyances Taken in Lieu of Foreclosure and Exception to Exemption.* Any tax imposed by this chapter shall not apply with respect to any deed, instrument or writing to a beneficiary or mortgagee, which is taken from the mortgagor or trustor as a result of or in lieu of foreclosure; provided, that such tax shall apply to the extent that the consideration exceeds the unpaid debt, including accrued interest and cost of foreclosure. Consideration, unpaid debt amount and identification of grantee as beneficiary or mortgagee shall be noted on the deed, instrument or writing or stated in an affidavit or declaration under penalty of perjury for tax purposes.

(h) *Conveyances by Governmental Entities with Agreements by Purchasers to Reconvey.* Any tax imposed by this chapter shall not apply with respect to any deed, instrument or other writing by which realty is conveyed by the State of California, any political subdivision thereof, or any agency or instrumentality of either thereof, pursuant to an agreement whereby the purchaser agrees to immediately reconvey the realty to the exempt agency.

(i) *Conveyances by Governmental Entities to Certain Nonprofit Corporations.* Any tax imposed by this chapter shall not apply with respect to any deed, instrument or other writing by which the State of California, any political subdivision thereof, or any agency or instrumentality of either thereof, conveys to a nonprofit corporation realty the acquisition, construction or improvement of which was financed or refinanced by obligations issued by the nonprofit corporation on behalf of a government unit, within the meaning of Section 1.103-(b) of Title 26 of the Code of Federal Regulations.

(j) *Gift Conveyances.* Any tax imposed pursuant to this chapter shall not apply to any deed, instrument, or other writing which purports to grant, assign, transfer, convey, divide, allocate, or vest lands, tenements, or realty, or any interest therein, if by reason of such inter vivos gift or by reason of the death of any person, such lands, tenements, realty, or interests therein are transferred outright to, or in trust for the benefit of, any person or entity.

3.04.070 Administration by County. The County of Riverside shall collect all taxes imposed pursuant to this chapter, in conformity with the provisions of Part 6.7 of Division 2 of the California Revenue and Taxation Code and the provisions of any County ordinances adopted pursuant thereto.

3.04.080 Refunds. Claims for refunds of the tax imposed by this chapter shall be governed by the provisions of Chapter 5 (commencing with section 5096) of Part 9 of Division 1 of the Revenue and Taxation Code.”

**SECTION 3. Intent to Supersede County Ordinances.** The provisions of this ordinance shall supersede the County ordinances codified in Chapter 4.08 of the

Riverside County Code, as those County ordinances were adopted by City Ordinance No. 08-01.

**SECTION 4. Declaration of Facts Constituting Urgency.** The City has just been incorporated and has no funds available to provide for the usual and current expenses of the City. Enacting this ordinance will provide the City with a source of revenue. Therefore, the City Council finds that this ordinance is necessary for the immediate preservation of the public peace, health, and safety, and declares that it shall take effect immediately upon its adoption as an urgency ordinance.

**SECTION 5. Severability.** If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 6. Effective Date.** This ordinance shall take immediate effect upon its passage by the City Council.

**SECTION 7. Publication.** The City Clerk shall cause this ordinance to be published or posted in accordance with Government Code section 36933.

**PASSED, APPROVED, AND ADOPTED** this 1st day of July, 2008.



\_\_\_\_\_  
Bob Cashman, Mayor

**ATTEST:**



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John Danielson, Interim City Clerk

**APPROVED AS TO FORM:**



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Julie Hayward Biggs, Interim City Attorney

STATE OF CALIFORNIA       )  
COUNTY OF RIVERSIDE    )  
CITY OF WILDOMAR        )

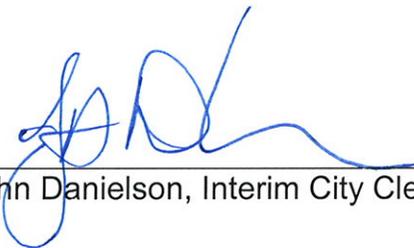
I, John Danielson, Interim City Clerk of the City of Wildomar, do hereby certify that the foregoing Ordinance No. 08-06 was duly adopted by the City Council of the City of Wildomar at a special first meeting, held on the 1st day of July, 2008, by the following vote of the Council:

AYES:       Cashman; Swanson; Moore; Farnam; Ade

NOES:       None

ABSTAIN:   None

ABSENT:    None



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John Danielson, Interim City Clerk