



Ordinance Fact Sheet

TO: CITY COUNCIL

DATE: June 30, 2003

FROM: CITY ATTORNEY

TITLE OF PROPOSED ORDINANCE: AN ORDINANCE OF THE CITY OF PASADENA TO AMEND CHAPTER 4.100 OF TITLE 4 OF THE PASADENA MUNICIPAL CODE ESTABLISHING THE PASADENA TOURISM BUSINESS IMPROVEMENT DISTRICT TO RE-NUMBER SAID CHAPTER AS CHAPTER 4.101.

PURPOSE OF ORDINANCE: To renumber Ordinance No. 6929 from Chapter 4.100 to 4.101.

REASONS WHY LEGISLATION IS NEEDED: At the time Ordinance No. 6929 was adopted to establish the Pasadena Tourism Business Improvement District, it inadvertently indicated that it was to be codified at Chapter 4.100 rather than 4.101. This Ordinance will re-codify the Ordinance correctly as Chapter 4.101.

PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED: None.

FISCAL IMPLICATIONS: None.

POLICY CHANGES: None.

Respectfully submitted,

Michele Beal Bagneris
MICHELE BEAL BAGNERIS
City Attorney

Prepared by:

Ann Sherwood Rider

Ann Sherwood Rider
Assistant City Attorney

Concurrence:

Cynthia J. Kurtz
Cynthia J. Kurtz
City Manager

MEETING OF 6/30/2003

AGENDA ITEM NO. 10.A.1.

Introduced by

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF PASADENA TO AMEND
CHAPTER 4.100 OF TITLE 4 OF THE PASADENA
MUNICIPAL CODE ESTABLISHING THE PASADENA
TOURISM BUSINESS IMPROVEMENT DISTRICT TO RE-NUMBER SAID
CHAPTER AS CHAPTER 4.101.

The People of the City of Pasadena do ordain as follows:

SECTION 1. This ordinance, due to its length and corresponding costs of publication, will be published by title and summary as permitted by Section 508 of the Charter. The approved summary of this ordinance reads as follows:

“Summary

The subject ordinance, Ordinance No. _____, renumbers Chapter 4.100 establishing the Pasadena Tourism Business Improvement District to Chapter 4.101 to correct a clerical error.”

RECITALS

WHEREAS, on February 3, 2003, the City Council adopted Ordinance No. 6929 to establish the Pasadena Tourism Business Improvement District pursuant to the Parking and Business Improvement Area Law of 1989 (California Streets and Highways Code Section 36500 et seq.); and

WHEREAS, Ordinance No. 6929 due to a clerical error was mistakenly numbered Chapter 4.100 when there already existed a Chapter 4.100 in the Pasadena Municipal Code; and

WHEREAS, to avoid confusion, it is necessary to re-number said Chapter 4.100 to Chapter 4.101.

THE PEOPLE OF THE CITY OF PASADENA ORDAIN AS FOLLOWS:

SECTION 2. The City Council of the City of Pasadena hereby finds, declares, and resolves that the above recitals are true and correct.

SECTION 3. Chapter 4.100 of the Pasadena Municipal Code as amended by Ordinance No. 6929 establishing the Pasadena Tourism Business Improvement District is hereby amended to renumber the referenced Chapter 4.100 to Chapter 4.101 to read as follows:

“Chapter 4.101

Sections:

- 4.101.010 Short Title.**
- 4.101.020 Definitions.**
- 4.101.030 District Established.**
- 4.101.040 Boundaries**
- 4.101.050 Activities**
- 4.101.060 Assessment**
- 4.101.070 Assessment-Businesses Subject to Assessment**
- 4.101.080 Assessment-New Business**
- 4.101.090 Assessment-Basis and Rate**
- 4.101.100 Assessment-Collection**
- 4.101.110 Assessment-Penalty and Interest**
- 4.101.120 Assessment-Debt to City of Pasadena**
- 4.101.130 Assessment-Election to Recover From Transient**
- 4.101.140 Special Fund**
- 4.101.150 Use of Revenues**
- 4.101.160 Contracting of Funds**
- 4.101.170 Amendments**
- 4.101.180 Recordkeeping and Inspections**

- 4.101.010 Short Title**

This chapter shall be known as the Pasadena Tourism Business Improvement District.

- 4.101.020 Definitions.**

For the purposes of this Chapter, all capitalized terms herein shall have the meanings set forth in Section 4.44.020 of this Code. Additionally, for the purposes of this Chapter, the following definitions shall apply:

A. "Assessment" means the assessment authorized by Section 4.101.050 of this Chapter.

B. "Authorized Activities" means the activities authorized to be provided in connection with the District, as set forth in Section 4.101.040 of this Chapter.

C. "District" means the Pasadena Tourism Business Improvement District established by Section 4.101.020 of this Chapter.

D. "Fiscal Year" means the period beginning July 1 of each calendar year and ending June 30 of the following calendar year, except that the Fiscal Year ending June 30, 2003 shall begin on the later of the effective date of this Chapter or March 5, 2003.

E. "Gross Occupancy Revenue" means the total Rent received from Transients by a Hotel and Motel Business.

F. "Hotel and Motel Business" means any Operator of a Hotel other than an operator of a Hotel that is owned by a nonprofit corporation and operated as an adjunct to a charitable or educational activity.

G. "Law" means the Parking and Business Improvement Area Law of 1989, being Sections 36500 and following of the California Streets and Highways Code.

H. "Transient Occupancy Tax" means the tax imposed by the City pursuant to Section 4.44.030 of this Code.

4.101.030 District Established.

A parking and business improvement area designated as the “Pasadena Tourism Business Improvement District” is hereby created and established pursuant to the Law.

4.101.040 Boundaries.

The boundaries of the District are the city limits of the City of Pasadena.

4.101.050 Activities.

The following activities are authorized to be provided in connection with the District: (i) the promotion of tourism within the District; (ii) the promotion of public events which benefit Hotel and Motel Businesses operating in the District; (iii) furnishing of music in any public place in the District; and (iv) activities which benefit Hotel and Motel Businesses located and operating in the District. The primary purpose of these activities is to promote tourism within the District.

4.101.060 Assessment.

Except where funds are otherwise available, an assessment shall be levied annually to pay for all Authorized Activities within the District. The Assessment shall be in addition to any other assessments, fees, charges or taxes imposed by the City.

4.101.070 Assessment- Businesses Subject to Assessment

The Assessment will be levied against each Hotel and Motel Business in the City. No other business shall be subject to the Assessment.

4.101.080 Assessment- New Businesses

New Hotel and Motel Businesses established in the District after the beginning of any Fiscal Year shall not be exempt from the levy of the Assessment for that Fiscal Year but shall instead be subject to the Assessment.

4.101.090 Assessment- Basis and Rate

The Assessment will be calculated as a percentage of each day's Gross Occupancy Revenue. The rate of the Assessment effective in any Fiscal Year shall be set by resolution of the City Council adopted pursuant to Section 36535 of the Law, and shall not exceed 2.89%.

4.101.100 Assessment- Collection

The Assessment calculated based on any day's Gross Occupancy Revenues shall be paid to the City no later than the date on which the Hotel and Motel Business is required, pursuant to Section 4.44.070 of this Code, to remit to the City the Transient Occupancy Tax collected by the Hotel and Motel Business on that day.

4.101.110 Assessment- Penalties and Interest

Any Hotel and Motel Business failing to timely make payment to the City of the Assessment pursuant to Section 4.101.090 of this Chapter shall be subject to the same penalties and interest thereon as set forth in Section 4.44.080 of this Code for failure to timely remit to the City Transient Occupancy Tax payments collected by the Hotel and Motel Business.

4.101.120 Assessment- Debt to City

The amount of Assessment, penalty and interest imposed by the provisions of this Chapter shall be deemed a debt to the City. An action may be commenced in any court of competent jurisdiction in the name of the City for the amount of such debt. The conviction and punishment of any person for failure to comply with the provisions of this Chapter shall not relieve such person from paying any Assessment, penalty or interest due and unpaid at the time of such conviction nor shall payment prevent prosecution of a violation of any of the provisions of this Chapter. All

remedies shall be cumulative, and the use of one or more remedies by the City to enforce this Chapter shall not bar the use of any other remedy.

4.101.130 Assessment- Election to Recover From Transient.

The Assessment is levied upon each Hotel and Motel Business subject to the Assessment, and each such business shall be solely responsible for paying all Assessments when due. Without disturbance of the foregoing, a Hotel or Motel Business may elect to recover some or all of the amount of the Assessment from Transients owning rent to the Hotel or Motel Business. The amount to be recovered from any Transient may not exceed the amount of Rent owed by that Transient to the Hotel and Motel Business, multiplied by the then effective rate of the Assessment. The amount recovered shall be identified or itemized (separately or in conjunction with the amount of Transient Occupancy Tax owned by that Transient) on a document provided to the Transient. Assessments levied on Hotel and Motel Businesses pursuant to this Chapter and recovered from Transients pursuant to this Section are not considered "Rent" for the purposes of Section 4.44.020 of this Code.

4.101.140 Special Fund.

There is created a special fund designated as "Pasadena Tourism Business Improvement District Fund" into which all revenue derived from Assessments levied pursuant to this Ordinance shall be placed, and such funds shall be used only for the purposes specified in this Ordinance. This fund shall be subject to an annual independent audit.

4.101.150 Use of Revenues.

Revenues from the levy of the Assessment may be used only for Authorized Activities, and shall not be used for activities outside of the District.

4.101.160 Contracting of Funds

The City may contract with a separate public or private agency to administer the Authorized Activities. Any agency that holds funds in trust for purposes related to the contract shall, at no expense to the City, provide an annual independent audit report by a Certified Public Accountant of these funds. The audit may be funded from Assessment proceeds as part of the general administration of the District. At all times the City shall reserve full rights of accounting of these funds.

4.101.170 Amendments.

Hotel and Motel Businesses within the District shall be subject to any amendments to the Law.

4.101.180 Recordkeeping and Inspections.

It shall be the duty of every Hotel and Motel Business to keep all records as may be necessary to determine the amount of Assessment due hereunder and shall preserve the same for a period of 4 years. The Tax Administrator shall have the right to inspect such records at all reasonable times.

The finance director shall determine the mode and method of recordkeeping required to assist the Tax Administrator to perform the duties required of him under this section. Any audit which must be performed to secure compliance with the terms of this section is to be performed in the City. If for any reason the audit cannot be performed in the City, the Hotel and Motel Business shall reimburse the City for the actual cost of all transportation, lodging, meals, travel time and other incidental costs reasonably incurred by the city in conducting the audit”

SECTION 4. Title 4, Chapter 4.100, entitled Power Division General Fund Franchise Transfer, is unchanged.

SECTION 5. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be published or posted in the manner prescribed by law.

SECTION 6. If any section, sentence, clause or phrase of this Ordinance is, for any reason, held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Pasadena hereby declares that it would have passed and does hereby pass this Ordinance and each section, sentence, clause and phrase hereof, irrespective of the fact that any one or more sections, sentences, clauses, or phrases may be declared invalid or unconstitutional.

SECTION 7. The Clerk Shall certify the adoption of this ordinance and shall cause this ordinance to be published by number, title and summary, and the city clerk's certification.

Signed and approved this ____ day of _____, 2003.

Bill Bogaard
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the
City of Pasadena at its regular meeting of _____, 2003, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Date Published:

Jane Rodriguez, CMC
City Clerk

APPROVED AS TO FORM:



Ann Sherwood Rider
Assistant City Attorney