

ORDINANCE 151

AN ORDINANCE IMPOSING A ONE PERCENT MUNICIPAL SALES AND USE TAX, PROVIDING FOR THE PERFORMANCE BY THE STATE TAX COMMISSION OF ALL FUNCTIONS INCIDENT TO THE ADMINISTRATION, OPERATION AND COLLECTION OF A SALES AND USE TAX HEREBY IMPOSED, PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED BY THE CITY/TOWN COUNCIL OF ELSINORE UTAH:

SECTION 1. TITLE. THIS ORDINANCE SHALL BE KNOWN AS THE "SALES AND USE TAX ORDINANCE OF THE CITY/TOWN OF ELSINORE

SECTION 2. PURPOSE. THE 48TH SESSION OF THE UTAH LEGISLATURE OF UTAH HAS AUTHORIZED THE COUNTIES AND MUNICIPALITIES OF THE STATE OF UTAH TO ENACT SALES AND USE TAX ORDINANCES IMPOSING A ONE PERCENT TAX.

IT IS THE PURPOSE OF THIS ORDINANCE TO CONFORM THE SALES AND USE TAX OF THE MUNICIPALITY TO THE REQUIREMENTS OF THE SALES AND USE TAX ACT, CHAPTER 12 OF TITLE 59, UTAH CODE ANNOTATED, 1953, AS CURRENTLY AMENDED.

SECTION 3. EFFECTIVE DATE. THIS ORDINANCE SHALL BECOME EFFECTIVE AS OF 12: 01 0' CLOCK A.M., JANUARY 1 , 1990.

SECTION 4. SALES AND USE TAX.

(A) (1) FROM AND AFTER THE EFFECTIVE DATE OF THIS ORDINANCE, THERE IS LEVIED AND THERE SHALL BE COLLECTED AND PAID A TAX UPON EVERY RETAIL SALE OF TANGIBLE PERSONAL PROPERTY, SERVICES AND MEALS MADE WITHIN THE MUNICIPALITY AT THE RATE OF ONE PERCENT.

(2) AN EXCISE, TAX IS HEREBY IMPOSED ON THE STORAGE, USE, OR OTHER CONSUMPTION IN THIS MUNICIPALITY OF TANGIBLE PERSONAL PROPERTY FROM ANY RETAILER ON OR AFTER THE OPERATIVE DATE OF THIS ORDINANCE AT THE RATE OF ONE PERCENT OF THE SALES PRICE OF THE PROPERTY.

(3) FOR THE PURPOSE OF THIS ORDINANCE ALL RETAIL SALES SHALL BE PRESUMED TO HAVE BEEN CONSUMMATED AT THE PLACE OF BUSINESS DELIVERED BY THE RETAILER OR HIS AGENT TO AN OUT-OF-STATE DESTINATION OR TO A COMMON CARRIER FOR DELIVERY TO AN OUT-OF-STATE DESTINATION. IN THE EVENT A RETAILER HAS NO PERMANENT PLACE OF BUSINESS, THE PLACE OR PLACES AT WHICH THE RETAIL SALES ARE CONSUMMATED SHALL BE AS DETERMINED UNDER THE RULES AND REGULATIONS PRESCRIBED BY AND ADOPTED. BY THE STATE TAX COMMISSION. PUBLIC UTILITIES AS DEFINED BY TITLE 54, UTAH CODE ANNOTATED, 1953, SHALL NOT BE OBLIGATED TO DETERMINED THE PLACE OR PLACES WITHIN ANY COUNTY OR MUNICIPALITY WHERE PUBLIC UTILITIES SERVICES ARE RENDERED, BUT THE PLACE OF SALE OR THE SALES TAX REVENUE ARISING FROM SUCH SERVICE ALLOCABLE TO THE CITY SHALL BE AS DETERMINED BY THE STATE TAX COMMISSION PURSUANT TO AN APPROPRIATE FORMULA AND OTHER RULES AND REGULATIONS TO BE PRESCRIBED AND ADOPTED BY IT.

(B) (1) EXCEPT AS HEREINAFTER PROVIDED, AND EXCEPT INsofar AS THEY ARE INCONSISTENT WITH THE PROVISIONS OF THE SALES AND USE TAX ACT, ALL OF THE PROVISIONS OF CHAPTER 12, TITLE 59, UTAH CODE ANNOTATED, 1953, AS AMENDED, AND IN FORCE AND AFFECT ON THE EFFECTIVE DATE OF THIS ORDINANCE, INsofar AS THEY RELATE TO SALES TAXES, EXCEPTING SECTIONS 59-12-101 AND 59-12-119 THEREOF, ARE HEREBY ADOPTED AND MADE A PART OF THE ORDINANCE AS THROUGH FULLY SET FORTH HEREIN.

(2) WHEREVER, AND TO THE EXTENT THAT IN CHAPTER 12 OF TITLE 59, UTAH CODE ANNOTATED, 1953, THE STATE OF UTAH IS NAMED OR REFERRED TO AS THE TAXING AGENCY, THE NAME OF THIS MUNICIPALITY SHALL BE SUBSTITUTED THEREFOR. NOTHING IN SUBPARAGRAPH (B) SHALL BE DEEMED TO REQUIRE SUBSTITUTION OF THE NAME OF THE MUNICIPALITY FOR THE WORD "STATE" WHEN THAT WORD IS USED AS PART OF THE TITLE OF THE STATE TAX COMMISSION, OR OF THE CONSTITUTION OF THE STATE OF UTAH, NOR SHALL THE NAME OF THE MUNICIPALITY BE SUBSTITUTED FOR THAT OF THE STATE IN ANY SECTION WHEN THE RESULT OF THAT SUBSTITUTION WOULD REQUIRE ACTION TO BE TAKEN BY OR AGAINST THE MUNICIPALITY OR ANY AGENCY THEREOF, RATHER THAN BY OR AGAINST THE STATE TAX COMMISSION IN PERFORMING THE FUNCTIONS INCIDENT TO THE ADMINISTRATION, OR OPERATION OF THE ORDINANCE.

(3) IF AN ANNUAL LICENSE HAS BEEN ISSUED TO A RETAILER UNDER SECTION 59-12-106 OF THE SAID UTAH CODE ANNOTATED, 1953, AN ADDITIONAL LICENSE SHALL NOT BE REQUIRED BY REASON OF THIS SECTION.

(4) THERE SHALL BE EXCLUDED FROM THE PURCHASE PRICE PAID OR CHANGED BY WHICH THE TAX IS MEASURED:

(A) THE AMOUNT OF ANY SALES OR USE TAX IMPOSED BY THE STATE OF UTAH UPON A RETAILER OF CONSUMER:

(B) THE GROSS RECEIPTS FROM THE SALE OF OR THE COST OF STORAGE, USE OR OTHER CONSUMPTION OF TANGIBLE PERSONAL PROPERTY UPON WHICH A SALES OR USE TAX HAS BECOME DUE BY REASON OF THE SALE TRANSACTION TO ANY OTHER MUNICIPALITY AND ANY COUNTY IN THE STATE OF UTAH, UNDER THE SALES OR USE TAX ORDINANCE ENACTED BY THAT COUNTY OR MUNICIPALITY IN ACCORDANCE WITH THE SALES AND USE TAX ACT.

SECTION 6. PENALTIES. ANY PERSON VIOLATING ANY OF THE PROVISIONS OF THIS ORDINANCE SHALL BE DEEMED GUILTY OF A MISDEMEANOR, AND UPON CONVICTION THEREOF, SHALL BE PUNISHABLE BY A FINE IN AN AMOUNT LESS THAN \$ 300.00 OR IMPRISONMENT FOR A PERIOD OF NOT MORE THAN SIX MONTHS, OR BY BOTH SUCH FINE AND IMPRISONMENT.

SECTION 7. SEVERABILITY. IF ANY SECTION, SUBSECTION, SENTENCE, CLAUSE, PHRASE OR PORTION OF THIS ORDINANCE, INCLUDING BUT NOT LIMITED TO ANY EXEMPTION 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.

IT IS THE INTENTION OF THE CITY/TOWN COUNCIL THAT EACH SEPARATE PROVISION OF THIS ORDINANCE SHALL BE DEEMED INDEPENDENT OF ALL OTHER PROVISIONS HEREIN.

ADOPTED BY THE CITY/TOWN COUNCIL OF ELSINORE, UTAH, THIS 6TH DAY OF FEBRUARY, 1990.