

CHARTER ORDINANCE NO. 846

A CHARTER ORDINANCE BY THE CITY OF SEDAN, KANSAS, EXEMPTING THE CITY OF SEDAN FROM THE PROVISIONS OF AND PROVIDING SUBSTITUTE PROVISIONS ON THE SAME SUBJECT FOR KANSAS STATUTES ANNOTATED 12-1692 ET SEQ, RELATING TO THE LEVY OF A TRANSIENT GUEST TAX AND PROVIDING FOR THE PURPOSE AND MANNER OF THE EXPENDITURE OF SUCH FUNDS.

Section 1. The City of Sedan is a duly Incorporated City of the Third Class within the State of Kansas, and by the powers vested in the said City by Article 12, Section 5 of the Constitution of the State of Kansas thereby exempts the City from the operation of and provides for substitute provisions to K.S.A 12-1692 et seq. which pertains to Transient Guest Tax. by cities located in counties having a population of more than 300,000: said substitute provisions for those Statutes as set forth in this Charter Ordinance.

Section 2. AUTHORITY, - In order to provide revenues to promote tourism and conventions within the City of Sedan, the governing body of the City of Sedan, pursuant to Article 12, Section 5 of the Constitution of the State of Kansas, hereby establishes a Transient Guest Tax and provides for the collection, payment and disposition of said tax and provides for penalties thereon.

Section 3. DEFINITIONS. As used in this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them herein:

(a) "PERSON" - means an individual, firm, partnership, corporation, joint venture or other association of persons;

(b) "HOTEL, MOTEL OR TOURIST COURT" means any structure or building which contains rooms furnished for the purposes of providing lodging, which may or may not also provide meals, entertainment or various other personal services to transient guests, and which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are sought for pay or compensation by transient or permanent guests and having more than two (2) bedrooms furnished for the accommodations of such guests;

(c) "TRANSIENT GUEST" - means a person who occupies a room in a hotel, motel or tourist court for not more than twenty-eight (28) consecutive days;

(d) "BUSINESS" - means any person engaged in the business of renting, leasing or letting living quarters, sleeping accommodations, rooms or a part thereof in connection with any motel, hotel or tourist court.

Section 4- LEVY OF TAX. A transient guest tax of four percent (4%) is hereby levied within the incorporated area of the City of Sedan, Kansas. Said tax is made upon the gross rental receipts derived from or paid by transient guests for sleeping accommodations, exclusive of charges for incidental services or facilities in any motel, hotel or tourist court located within the City. The effective date of said tax shall be August 1, 2006.

*Section 4- Amended with Resolution 12-2. Jhr
Attached*

Section 5. COLLECTION OF TAX BY BUSINESSES. The taxes levied pursuant to this Ordinance shall be paid by the consumer or user to the business and it shall be the duty of each and every business to collect from the consumer or user the full amount of any such tax, or an amount equal as nearly as possible or practicable to the average equivalent thereto. Each business collecting any of the taxes as levied hereunder shall be responsible for paying over the same to the State Department of Revenue in the manner prescribed by this Ordinance and the State Department of Revenue shall administer and enforce the collection of such taxes.

Section 6. PAYMENT OF TAX BY BUSINESSES The tax levied and collected pursuant to this Ordinance shall become due and payable by the business monthly, on or before the 25th day of the month immediately succeeding the month in which it is collected, with the first payment due and payable on or before the 25th day of July, 2006, but any person filing an annual or quarterly return under the Kansas Retailer's Sales Tax Act, as prescribed in K.S.A. 79-3607, and amendments thereto, shall, upon such conditions as the Secretary of Revenue may prescribe, pay the tax required by this Ordinance on the same basis and at the same time such person pays the retailer's sales tax. Each business shall make a true report to the Department of Revenue, on a form prescribed by the secretary of revenue, providing such information as may be necessary to determine the amounts to which any such tax shall apply for all gross rental receipts for the applicable month or months, which report shall be accompanied by the tax disclosed thereby. Records of gross rental receipts shall be kept separate and apart from the records of other retail sales made by a business in order to facilitate the examination of books and records as provided herein, *Section 6 Amended with Resolution 6-06-3 attached*

Section 7. COLLECTION, DISTRIBUTION AND ADMINISTRATION OF THE TAX BY THE STATE OF KANSAS, (a) The Secretary of Revenue is hereby authorized to administer and collect any transient guest tax levied pursuant to this Ordinance and to adopt such rules and regulations as may be necessary for the efficient and effective administration and enforcement of the collection thereof. Whenever any business liable to pay any transient guest tax, refuses or neglects to pay the same, the amount, including any penalty, shall be collected in the manner prescribed for the collection of the Retailer's Sales Tax by K.S.A. 79-3617, and amendments thereto. All of the taxes collected under the provisions of this Ordinance shall be paid into the State Treasury daily by the Secretary of Revenue, and the State Treasurer shall place 2% of all taxes so collected in the State General Fund to defray the expenses of the department in the administration and enforcement of the collection thereof. The remainder of such taxes shall be credited to the Sedan Transient Guest Tax Fund, which fund is hereby established. All monies in the Sedan Transient Guest Tax Fund shall be remitted at least quarterly by the State Treasurer to the Sedan City Treasurer.

(b) The Secretary of Revenue or the Secretary's authorized representative shall have the right at all reasonable times during business hours to make such examination and inspection of the books and records of a business as may be necessary to determine the accuracy of such reports.

(c) The director of taxation shall provide, upon request by the Sedan City Clerk, a monthly report identifying each person doing business in Sedan, Kansas, to which, such tax is applicable and setting forth the amount of such tax remitted by such business during the preceding month. Such report shall be made available to the Sedan City Clerk within a reasonable time after it has been requested from the director of

taxation. The director of taxation shall be allowed to assess a reasonable fee for the issuance of such report. Information received by City of Sedan pursuant to this section shall be kept confidential and it shall be unlawful for any officer or employee of City of Sedan to divulge any such information in any manner. Any violation of this paragraph by a city officer or employee is a class B misdemeanor, and such officer or employee shall be dismissed from office.

(d) Except as otherwise provided in K.S.A 12-1774. and amendments thereto, all such moneys received by the city treasurer from disbursements from the city transient guest tax fund shall be credited to the tourism and convention promotion fund of such city and shall only be expended for convention and tourism promotion.

Section 8. INTEREST AND PENALTIES FOR FAILURE TO PAY OR UNTIMELY PAYMENT OF TRANSIENT GUEST TAX

(a) If any taxpayer shall fail to pay the tax levied pursuant to this Charter Ordinance at the time required, there shall be added to the unpaid balance of the tax, interest at the same rate per month prescribed by subsection (a) of K.S.A 79-2968. and amendments thereto, from the date the tax was due until paid.

(b) If any taxpayer due to negligence or intentional disregard fails to file a return or pay the tax due at the time required by or under the provisions of this Charter Ordinance, there shall be added to the tax a penalty in an amount equal to 10% of the unpaid balance of tax due.

(c) If any person fails to make a return, or to pay any tax, within 60 days from the date the return or tax was due. except In the case of an extension of time granted by the director, there shall be added to the tax due a penalty equal to 25% of the amount of such tax.

(d) If any taxpayer, with fraudulent intent, fails to pay any tax or make, render or sign any return or to supply any information, within the time required by or under the provisions of this Charter Ordinance, there shall be added to the tax a penalty in an amount equal to 50% of the unpaid balance of tax due.

(e) Penalty or interest applied under the provisions of subsections (a) and (d) shall be in addition to the penalty added under any other provisions of this section, but the provisions of subsections (b) and (c) shall be mutually exclusive of each other.

(f) Whenever, in the judgment of the Director, the failure of the taxpayer to comply with the provisions of subsections (b) and (c) was due to reasonable causes and not willful neglect, the Director may waive or reduce any penalties upon making a record of the reasons therefor.

(g) In addition to all other penalties provided by this section, any person who willfully fails to make a return or to pay any tax imposed under this Charter Ordinance, or who makes a false or fraudulent return, or fails to keep any books or records necessary to determine the accuracy of the person's reports, or who willfully violates any regulations of the Secretary of Revenue, for the enforcement and administration of the provisions of this Charter Ordinance, or who aids and abets another in attempting to evade the payment of any tax imposed by this Charter Ordinance, or who violates any other provision of this Charter Ordinance shall, upon conviction thereof, be fined not less than \$100.00 nor more than \$1,000.00, or be imprisoned in the county jail not less than one month nor more than six months, or be both so fined and imprisoned, in the discretion of the Court.

Section 9. SEDAN TOURISM PROMOTION FUND.

Sedan Tourism Promotion Fund is hereby established to receive Transient Guest Tax funds from the secretary of revenue. Funds collected pursuant to the Transient Guest Tax hereon levied shall be apportioned in the following priority:

One Hundred percent (100%) to the promotion of tourism for the City of Sedan and its environs.

Section 10. DISBURSEMENT OF TRANSIENT GUEST TAX FUNDS. Funds received by the City Treasurer from the Transient Guest Tax levied under this Ordinance shall be disbursed as follows:

The City of Sedan shall retain One Hundred percent (100%) of the funds received from the Department of Revenue. These funds shall be disbursed upon the recommendation of the Sedan Tourism Committee, subject to approval of the Sedan City Council, for the promotion of tourism for the City of Sedan and its environs, and the application of funds as described in Section 9 above.

However, recommended disbursement by the Sedan Tourism Committee of funds in an amount less than Two Hundred and Fifty Dollars (\$250,00), may be approved by the Mayor, or in the absence of the Mayor, the City Clerk, without the necessity for further review and approval by the Sedan City Council

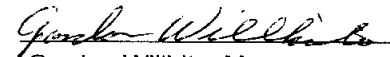
Section 11. TOURISM COMMITTEE. There is hereby created a Sedan Tourism Committee. This Committee is established to make recommendations to the Sedan City Council concerning programs and expenditures for promoting conventions and tourism. The Committee shall consist of five (5) members, which shall be either a Sedan city resident, and/or a member of the Sedan Chamber of Commerce, and/or an individual possessing skills that render that person to be uniquely qualified to serve as a member of said Committee, for example, but not limited to, a public relations or media specialist. The Committee shall be appointed by the Mayor with the advice and consent of the City Council. Committee members shall serve two (2) year terms, initially appointed as follows:

- (1) Three (3) members appointed for a term ending January 1, 2009
- (2) Two [2] members appointed for a term ending January 1, 2008

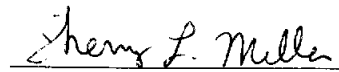
Thereafter, at the expiration of the terms of the original members, successors shall be named to two (2) year terms. The Committee shall formulate by-laws for its operation which shall become effective upon approval by the City Governing Body.

Section 12. Pursuant to Article 12, Section 5, of the Constitution of the State of Kansas, this Charter Ordinance shall be published once each week for two consecutive weeks in the official city newspaper, the Sedan Times-Star, and shall become effective sixty (60) days after its final publication, unless within sixty (60) days of its final publication a petition is signed by a number of electors of the City of Sedan, Kansas, equal to not less than ten percent (10%) of the number of electors who voted at the last preceding regular city election shall be filed in the office of the City Clerk demanding that such ordinance be submitted to a vote of the electors, in which event said charter ordinance shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon.

Passed by the Mayor and City Council this 17th day of April, 2006.


Gordon Willhite, Mayor

Attest:


Sherry Miller, City Clerk

[Return to list](#)