Chapter 74 “Taxation”, Article II “Hotel Occupancy Tax”

- During the August 3rd City Council meeting, staff was directed to amend the ordinances regulating short-term rentals and hotel occupancy tax (HOT).
- The purpose of this item is to amend the following sections of Chapter 74, “Taxation”, of the Code of Ordinances.
- The following slides detail the amendments being proposed.

BTX MADE

Proposed Ordinance Amendments

- § 74-31. Definitions. *Revises the definition to include short-term rentals, while excluding oilfield portable units. Includes new definitions for "Owner", "Short-Term Rental" and "Tax Assessor-Collector".*

- § 74-33. Collections. *Adds the following language: Every person owning, operating, managing or controlling any hotel shall collect the tax imposed in section 74-32 for the city and remit the same to the tax assessor-collector on or before the due date, and at the same time file the report required by section 74-34 herein."*

BTX MADE

Proposed Ordinance Amendments

- § 74-34. Reports. *Adds the following language: On or before the last day of the month following each quarterly period, every person required in section 74-33 to collect the tax imposed herein shall file a report with the city manager or designated agent showing the consideration paid for all room occupancies in the preceding quarter, the amount of the tax collected on such occupancies, and any other information the city manager or his designated agent may reasonably require. The city manager may request, and a person required to collect the tax shall provide within a reasonable time, additional documentation verifying the information contained in the report to the city. Such person shall pay the tax use on such occupancies at the time of filing such report and on and before the due date of such report."*
- *§ 74-37. Penalties for violation of article. Adds the following language:*

a) *If any person shall fail to collect the tax imposed herein; or shall fail to file a report as required herein; or shall fail to pay to the tax assessor-collector the tax as imposed herein when said report for payment is due, or shall file a false report, then the city may invoke the provisions of V.T.C.A., Tax Code §§ 111.060, 156.202, 351.004, and 351.0042.*

b) *Any person who fails to pay the tax within the time period required in section 74-33 herein shall be charged interest at the maximum rate allowed by state law.*

c) *In addition to the tax imposed by this article, a person shall pay a penalty of fifteen percent (15%) of the tax due if the tax has been delinquent for at least one municipal fiscal quarter and if the person: (1) fails to file a report on or before the due date, or (2) fails to pay the tax imposed on or before the due date.*

d) *The remedies provided by this section are in addition to all other available remedies at law or in equity."*

BTX MADE

Proposed Ordinance Amendments (new sections)

- *"§ 74-38. Criminal Penalty.*

If any person required by the provisions of this article to collect the tax imposed herein, or make reports as required herein, and pay to the City the tax imposed herein, shall fail to collect such tax, file such report or pay such tax, or if any such person shall files a false report, or such person shall violate any of the provisions of this article, the City is authorized to impose a misdemeanor fine for a violation of this article. A person who violates this article shall be guilty of a misdemeanor and upon conviction shall be assessed a fine not to exceed Five Hundred Dollars ($500.00)."

- *"§ 74-39. Disposition of tax collection and uses.*

Subject to the legislative discretion of the city council, monies from the tax levied herein received by the city may be deposited into an account to be maintained by the city, and the funds and balances of such account shall be managed and invested in compliance with the city's investment policy and state law. All monies from the tax levied herein shall be expended as provided by state law, and, subject to the exercise of legislative discretion and appropriations of the city council, may be set aside, budgeted, and appropriated for use and expenditure by the city for such purposes."

BTX MADE

Proposed Ordinance Amendments (new sections)

- *"§ 74-40. City records of tax collection and uses.*

The city shall maintain books and accounts that accurately identify the receipt and expenditure of all monies derived from the tax levied herein as provided in V.T.C.A., Tax Code § 351.108."

- *"§ 74-41. Collection procedures on purchase of hotel.*

a) If a person who is liable for the remittance of a tax under this article is the owner of a hotel and sells the hotel, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to remit the amount due until the seller provides a receipt by an individual designated by the city to provide the receipt showing that the amount has been remitted or to issue a certificate showing that no tax is due.

b) The purchaser of a hotel who fails to withhold an amount of the purchase price as required by this section is liable for the amount required to be withheld to the extent of the value of the purchase price.

c) The purchaser of a hotel may request that the individual designated by the city to provide a receipt under subsection (a) above issue a certificate stating that no tax is due or issue a statement of the amount required to be remitted before a certificate may be issued. The individual designated by the city shall issue the certificate or statement not later than the sixtieth day after the date that the individual receives the request.

d) If the individual designated by the city to provide a receipt under subsection (a) above fails to issue the certificate or statement within the period provided by subsection (c) above, the purchaser is released from the obligation to withhold the purchase price or remit the amount due.

e) The city manager may designate in writing one or more individuals to act on behalf of the city pursuant to subsections (c) and (d)."

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Staff Recommendation

- Staff recommends the City Council approve the proposed Ordinance amendments to Chapter 74, “Taxation”, Article II “Hotel Occupancy Tax”.
    - Proposed ordinance, if approved, will take effect on 1/1/27

Questions / Comments

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