

# FINANCE

## CHAPTER 7

### Article 1. Sales and Use Tax

#### Sec. 7-1. Sales tax retained.

- (A) The City of Big Spring by majority vote of its governing body, hereby votes to retain the taxes authorized by the Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes) on the receipts from the sale, production, distribution, lease or rental of, and the use, storage, or other consumption of gas and electricity for residential use, as authorized by Section 6 of House Bill No. 1, Acts 1978, 65th Legislature, Second Called Session. (Ord. of 4-24-79)
- (B) A one half of one percent Local Sales and Use Tax authorized by Section 321.101 (b) Municipal Sales and Use Tax Act for the reduction of property taxes shall become effective within the City of Big Spring on October 1, 1990. (Ord. of 06-26-90).
- (C) A one half of one percent Local Sales and Use Tax authorized by Article 5190.6, Section 4A, Vernon's Texas Civil Statutes for the benefit of an Industrial Development Corporation shall become effective within the City of Big Spring on October 1, 1990. (Ord. of 06-26-90).

Note: The voters of the city, at an election held December 16, 1967, approved a one percent (1%) city sales and use tax as authorized by VACS Art. 1066c.

#### Sec. 7-2. Adoption of state law relative to payment of taxes and penalties.

The provisions of Article 7336, Vernon's Annotated Civil Statutes of the State of Texas, as amended, shall apply and to and govern the payment of taxes due and owing to the city and penalties in connection therewith, to the same extent as if such article had been, by the terms thereof, made applicable to city taxes. (Ord. of 3-20-35,§1)

#### Sec. 7-3. Homestead exemption for aged.

Under the authority of Section 1-b (b) of Article VIII of the Constitution of Texas, three thousand dollars (\$3,000) of the assessed value of residence homesteads, as now defined by law, of persons sixty-five (65) years of age or older on January 1 of any calendar year shall be exempt from ad valorem taxation by the City of Big Spring for such year. Any person claiming such exemption for his or her property shall, prior to April 30 of the tax year for which such exemption is claimed, render such property as a homestead upon a form prepared by the city tax assessor-collector for such purpose and submit such proof of age and ownership of the property as he may reasonably require. This exemption shall become effective beginning with the 1974 tax year. (Ord. of 5-8-73, §1)

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### Sec. 7-4. Taxation of telecommunication services.

A tax is hereby authorized on all telecommunications services sold within the City of Big Spring. For purposes of this section, the sale of telecommunications services is consummated at the location of the telephone or other telecommunications device from which the call or other communication originates. If the point of origin cannot be determined, the sale is consummated at the address to which the call or other communication is billed.

The rate of the tax imposed by this section shall be the same as the rate imposed by the City of Big Spring, Texas, for all other local Sales and Use Taxes as authorized by the legislature of the State of Texas.

The City Secretary shall forward to the Comptroller of the State of Texas by United States Registered Mail a copy of this ordinance along with a copy of the minutes of the City Council's vote and discussion on this ordinance. This section shall become effective as of October 1, 1987. (Ord. of 6-29-87)

### Sec. 7-5 to 7-6. Reserved.

## Article 2. Hotel Occupancy Tax

### Sec. 7-7. Definition of terms.

The following words, terms and phrases are, for the purpose of this article, except where the context clearly indicates a different meaning, defined as follows:

- (A) Hotel. Any building or buildings, trailer, railroad pullman car not being utilized for the transportation of travelers, or other facility in which the public may, for a consideration, obtain sleeping accommodations. The terms shall include hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, trailer houses, trailer motels, railroad pullman cars parked on a siding or other area and used for sleeping accommodations not involving the transportation of travelers, dormitory space where bed space is rented to individuals or groups, apartments not occupied by "permanent residents" as that term is hereinafter defined, and all other facilities where rooms or sleeping facilities or spaces are furnished for a consideration, but "hotel" shall not be defined so as to include hospitals, sanitariums, or nursing homes.
- (B) Consideration. The cost of the room, sleeping space, bed or dormitory space or other facilities in such hotel and shall not include the cost of any food served or personal services rendered to the occupant not related to cleaning and readying such room or space for occupancy, and shall not include any tax assessed for occupancy thereof by any other governmental agency.
- (C) Occupancy. The use or possession, or the right to use or possession of any room, space, or sleeping facility in a hotel for any purpose.

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- (D) Occupant. Anyone who, for a consideration, uses, possesses, or has a right to use or possess any room or rooms, or sleeping space or facility in a hotel under any lease, concession, permit, right of access, license, contract or agreement.
- (E) Person. Any individual, company, corporation or association owning, operating, managing or controlling any hotel.
- (F) City Secretary. The City Secretary of the City of Big Spring.
- (G) Quarterly period. The regular calendar quarters of the year, the first quarter being composed of the months of January, February and March; the second quarter being the months of April, May and June; the third quarter being the months of July, August and September; and the fourth quarter being the months of October, November and December.
- (H) Permanent resident. Any occupant who has or shall have the right to occupancy of any room or rooms or sleeping space or facility in a hotel for at least thirty (30) consecutive days during the current calendar year or preceding year. (Ord. of 7-10-73, §1)

**Sec. 7-8. Levy of tax; rate; exception; use.**

- (A) There is hereby levied a tax upon the occupant of any room or space furnished by any hotel whence such cost of occupancy is at the rate of two dollars (\$2.00) or more per day, such has to be equal to seven percent (7%) of the consideration paid by the occupant of such room, space or facility to such hotel, exclusive of other occupancy taxes imposed by other governmental agencies effective as of October 1, 1973. (Ord. of 7-26-77; Ord. 100-83, 11-27-83, §1)
- (B) No tax shall be imposed hereunder upon a permanent resident.
- (C) No tax shall be imposed hereunder upon an occupant of any room or space rented from a corporation or association organized and operated exclusively for religious, charitable or education purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.
- (D) All revenue derived from the occupancy tax imposed in (a) hereof will be used only for the purposes specified below; provided, however, any revenues from a tax in excess of four percent (4%) of the consideration paid by an occupant of the sleeping room to the hotel may only be used for the purposes specified in subdivisions (1), (2), and (3) below and further no more than 1% of said consideration may be used for the purposes specified in subdivision (4) below:

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- (1) The acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation and maintenance of convention center facilities including, but not limited to, civic center convention buildings, auditoriums, coliseums, civic theaters, museums and parking areas or facilities for the parking or storage of motor vehicles or other conveyances located at or in the immediate vicinity of convention center facilities;
- (2) The furnishing of facilities, personnel and materials for the registration of convention delegates or registrants;
- (3) For advertising for general promotional and tourist advertising of the city and its vicinity, and conducting a solicitation and operating program to attract conventions and visitors either by the city or through contracts with persons or organizations selected by the city; (Ord. of 7-10-73, §1)
- (4) The encouragement, promotion, improvement and application of the arts, including music, (instrumental and vocal), dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, television, radio, tape and sound recording, and the arts related to the presentation, performance, execution, and exhibition of these major art forms;
- (5) Historical preservation and restoration projects or activities at or in the immediate vicinity of convention center facilities or historical preservation and restoration projects or activities located elsewhere in the city that would be frequented by tourists and visitors to the city. (Ord. of 7-12-77; Ord. 100-83, 11-27-83; §1; Ord. of 11-13-84)

### **Sec. 7-9. Collection.**

Every person owning, operating, managing or controlling any hotel shall collect the tax imposed in section 7-8 hereof for the City of Big Spring. (Ord. of 7-10-73)

### **Sec. 7-10. Reports.**

- (A) On the last day of the month following each monthly reporting period, every person required in Section 7-9 hereof to collect the tax imposed herein, shall file a report with the city secretary showing the consideration paid for all room occupancies, and any other information as the city secretary may reasonably require. Such person shall pay the amount of tax collected from occupants during the period of the report at the time of filing the report. (Ord. of 7-10-73, 9-8-87, §1)(Ord. of 01-26-93).
- (B) An exception to the monthly report required to be filed under Section 7-10 (a) shall be that the filing of a report is not required until the total amount due to the City exceeds one hundred dollars (\$100.00) or until the end of a calendar quarter, whichever comes

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first. A report will be filed at the end of the second month of a calendar quarter if the amount due to the City exceeds one hundred dollars (\$100.00).(Ord. of 01-26-93).

### **Sec. 7-11. Rules and regulations.**

The city secretary shall have the power to make such rules and regulations as are necessary to effectively collect the tax levied herein, and shall upon reasonable notice have access to books and records necessary to enable him to determine the correctness of any report filed as required by this article and the amount of taxes due under the provisions of this article. (Ord. of 7-10-73, §1)

### **Sec. 7-12. Penalties.**

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 city secretary the tax as imposed herein when said report for payment is due, or shall file a false report, then such person shall be deemed guilty of a misdemeanor and upon conviction be punished by a fine not to exceed two hundred dollars (\$200.00). In addition, such person who fails to remit the tax imposed by this article within the time required shall forfeit five percent (5%) of the amount due as a penalty, and after the first thirty (30) days shall forfeit an additional five percent (5%) of such tax. Provided, however, that the penalty shall never be less than one dollar (\$1.00). Delinquent taxes shall draw interest at the rate of six percent (6%) per annum beginning sixty (60) days from the date due on the tax imposed by this article. (Ord. of 7-10-73)

### **Sec. 7-13. Collection from purchaser of hotel tax owed by seller to City upon sale of hotel.**

- (A) If a person who is liable for the payment of an amount under this Article is the owner of the hotel and sells the hotel, the successor to the seller or the seller's assignee or purchaser shall withhold an amount of the purchase price sufficient to pay the amount due until the seller provides a receipt from the City Secretary showing that the amount has been paid or a certificate stating that no amount is due. If the seller does not provide said receipt or certificate to the purchaser within ten days from the date the hotel is sold to the purchaser, then the purchaser shall, within five days after the expiration of said ten day period, request in writing by certified mail, return receipt requested, the certificate or statement referred to in Subsection (c) of this Section. If tax is due purchaser shall pay said tax to the City Secretary within five days of receipt from the City Secretary of a statement of the amount of tax required to be paid before a certificate of no tax due may be issued (this liability of the purchaser shall be limited in accordance with Subsection (b) below.
- (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 City Secretary issue a certificate stating that no taxes are due or issue a statement of the amount required to be paid before a certificate may be issued. The City Secretary shall issue the certificate or statement

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within 60 days after receiving the written request by certified mail, return receipt requested or within 60 days after the day on which the records of the former owner of the hotel are made available for audit, whichever period expires later, but in either event the City Secretary shall issue the certificate or statement within one year after the date of receiving the request.

- (D) If the City Secretary fails to mail the certificate or statement by certified mail, return receipt requested, within one year after the purchaser's written request is received as specified in Subsection (c) of this Section, the purchaser is released from the obligation to withhold the amount of the purchase price specified in this section or pay the amount due.
- (E) The period of limitation during which the City Secretary may assess tax against the purchaser under this Section is four years from the date when the former owner of the hotel sells the hotel or when a determination is made against the former owner, whichever event occurs later. At any time within three years after a deficiency determination against the purchaser has become due and payable the City Secretary may bring an action in a court of competent jurisdiction in the name of the City of Big Spring to collect the delinquent amounts together with penalties and interest.
- (F) The provisions of this Section are similar to the provisions in Section 156.204 of the Tax Code of the State of Texas relating to collection of the state hotel tax from a purchaser of a hotel. (Ord. of 4-8-86)

### **Sec. 7-14. Convention and Visitors Bureau Board.**

#### (A) Composition of the Board

The Convention and Visitors Bureau Board shall be composed of the following:

1. Two City Council members, each of whom shall be appointed by a majority vote of the City Council;
2. The City Manager;
3. The Director of Finance;
4. The President Elect of the Big Spring Chamber of Commerce Board of Directors;
5. Two at large member appointed by majority vote of the City Council.

All members shall be entitled to vote on any measure brought before the Board. (Ord. of 6-22-10)

#### (B) Terms of Office

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All members with the exception of the at-large member shall serve during their term of office with the City of Big Spring or the Chamber of Commerce. Councilmembers shall be subject to reappointment following their reelection to their respective council seats. The at large member shall serve a term of three years. All members are subject to removal by the City Council at the will of the Council. (Ord. of 6-22-10)

(C) Filling of Vacancies

Any vacancies occurring on the Convention and Visitors Bureau Board shall be filled in the same manner as the original appointment. With the exception of the City Manager and Finance Director, the terms of appointed members shall be deemed extended until a successor is appointed. In the event the City Manager or Finance Director is removed from office they shall immediately cease to serve as board members.

(D) Meeting: Quorum

The Convention and Visitors Bureau Board shall fix the time and place for meetings of the Board. Any four (4) members of the Board constitute a quorum necessary to cause official action to be taken on any matter. All meetings shall be open to the public.

(E) Staff Liaison

The Convention and Visitors Coordinator serves as staff liaison to the Convention and Visitors Bureau Board and shall act as Secretary of the Board responsible for keeping the minutes and other official records of the Board.

(F) Powers of the Board

The City Council hereby delegates to the Convention and Visitors Bureau Board the power to manage the Hotel Motel Tax Fund and to make final decisions regarding expenditures and programs to be supported by the fund within the confines of the annual budget adopted by the City Council. The board shall have the authority to execute contracts in its own name and shall have the authority to file suit if necessary to enforce such contracts. The Board shall have primary authority to manage the Dora Roberts Community Center and is authorized to make such regulations as the Board may deem necessary for the management of the Center.

(G) Reporting

The Board shall make a report to the City Council at least annually describing the status of all projects undertaken by the Board and all funds under the control of the Board. The Convention and Visitors Bureau budget shall be prepared as a part of the budget of the City of Big Spring and as such shall be under the control of the City Council. (Ord.

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of 2-24-04, Ord. of 6-22-10)

### **7-15. Reserved.**

## **Article 3. Ad Valorem Tax**

### **Sec. 7-16. Appointment of city tax assessor and collector.**

The city council shall appoint a suitable qualified person as the city tax assessor and collector. Without limiting the generality of the foregoing, the city council shall have the right to appoint the tax assessor and collector of any other taxing unit within Howard County, Texas, to also serve as the city tax assessor and collector, provided that this type of appointment is not prohibited by law. The words "city tax assessor and collector" mean the tax assessor and collector of the City of Big Spring, Texas. (Ord. of 3-22-83, §7-16)

### **Sec. 7-17. Duties of city tax assessor and collector.**

The city tax assessor and collector shall perform all duties required by law relating to assessing and collecting the City of Big Spring ad valorem taxes and any additional duties connected thereto required by the city council. Notwithstanding anything in this Code to the contrary, any duties formerly imposed on the city tax assessor and collector which do not relate to city ad valorem taxation (e.g., duties relating to hotel occupancy tax, alcoholic beverage permits, and public dance hall licenses) shall be performed by the city secretary and not by the city tax assessor and collector. (See §§7-7 et seq, 2-1 et seq, and 5-38 et seq.) (Ord. of 3-22-83, §7-17)

## **Article 4. Exemptions of the City**

### **Sec. 7-18. Exemption of city from garnishment.**

Pursuant to Subdivision 5 of Article 1175 of the Texas Revised Civil Statutes no fund of the city shall be subject to garnishment and neither the city nor any of its officers or agents shall ever be required to answer in any garnishment proceedings. But nothing in this section shall be construed to limit the solemn and imperative duty of the city to discharge as promptly as possible every legal obligation established against it. (Cross reference Article XII, Section 4 of the City Charter for further exceptions regarding garnishment and execution.) (Ord. of 10-8-85)

## **Article 5. Bingo Tax**

### **Sec. 7-19. Levy of Tax Rate.**

There is hereby levied a tax upon the gross receipts on the conduct of bingo games, such tax to be Two Percent (2%) of the gross receipts of all bingo games conducted in the City.

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### Sec. 7-20. Adoption of Bingo Enabling Act.

The definitions; authorization for gross receipts tax; restrictions on bingo games; application and issuance of license; prohibited practices; control and supervision; suspension of licenses; inspection of premises; frequency and time of games; examination of records; disclosure of information; and all other sections of the Bingo Enabling Act of the State of Texas shall be adopted as the regulatory authority for this article. A copy of the referenced Bingo Enabling Act shall be on file in the office of the City Secretary. (Ord. of 9-22-87)

## Article 6. Economic Development Incentive Program

### Sec. 7-21. Purpose of Program.

This economic development incentive program is intended to promote economic development and stimulate business and commercial development within the City and its extra-territorial jurisdiction, to encourage development and redevelopment in such areas, to diversify the economy of the area, to work towards eliminating unemployment and underemployment and to aid with the expansion of commerce within the state and the local area.

### Sec. 7-22. Criteria for Granting Incentives.

The City will consider economic incentives to persons or entities making application to the program in instances where it can be demonstrated that any of the following are likely to result from the program:

- increase in tax revenue for the City, County or other taxing entities in the area can be reasonably expected;
- the overall quality of life of the people who live or work in the City or surrounding areas will be improved;
- progress will be made in eliminating unemployment or underemployment and improving the local workforce;
- development and expansion of commerce in the City and County.

Subject to availability of funds or services to be used for this program, the City will consider awarding economic incentives, including, but not limited to, grants of public money or personnel services of the municipality or the implementation of any other economic incentive practices allowed by law for those proposed projects or developments that meet the above criteria.

### Sec. 7-23. Procedural Objectives.

(a.) Provide clear consistent process for the consideration of economic development projects.

(b.) Promote projects that encourage the realization of important City objectives including any of the following:

- (i) Improvement to the City's infrastructure;

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- (ii) Increase in tax revenue;
- (iii) Promotion of high quality, well planned developments;
- (iv) Preservation of historic properties and districts;
- (v) Improvement to the aesthetics and cleanliness of all areas of the city;
- (vi) Job creation;
- (vii) Improvements to the local workforce; and
- (viii) Improvement to the overall quality of life in the community.

### **Sec. 7-24. Evaluation Procedures.**

Each application for economic development incentives will be reviewed in the following manner.

- a. Prior to the submission of an application, the applicant must request and attend a pre-submission meeting with the City Manager or his designee, and any necessary city staff. At the meeting, the parties will address questions regarding the requested incentive, the review process and to reach a general consensus of whether there is a reasonable expectation of City support for the project going forward.
- b. Applicant submits an application meeting the requirements set forth below to the City Secretary.
- c. The City Manager will conduct an initial evaluation to determine if additional information is required.
- d. A review team appointed by the City Manager will evaluate the proposal. The review team will consist of the following city staff or their designee:
  - (i) City Manager
  - (ii) City Attorney
  - (iii) Finance Director
  - (iv) Public Works Director
- e. If necessary, the review team will meet with the applicant for additional information and to negotiate the necessary agreement(s) for the project.
- f. The City Manager will submit a written or verbal report and recommendation to the City Council.
- h. The City Council will consider the review team's recommendation and take action.

### **Sec. 7-25. Application Requirements.**

Each application for the consideration of an economic development project shall include at a

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minimum:

- a. Project description;
  - b. Private expenditure requirements;
  - c. Public infrastructure requirements;
  - d. Projection of increased assessed value;
  - e. Projection of sales and use taxes;
  - f. Economic development assistance needed;
  - g. Financial capability of Developer;
  - h. Developer resume;
  
  - i. Any changes or variances requested to City ordinances;
  - j. Proof of access to public rights of way; and
  - k. Any street closings or other actions requested of City Council.
- (Ord. of 6-10-08)