

## **Chapter 90 TAXATION** [11](#)

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ARTICLE III. - HOTEL OCCUPANCY TAX

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FOOTNOTE(S):

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**Cross reference**— Administration, ch. 2; finance, § 2-226 et seq.; businesses, ch. 22; occupation tax, § 22-31 et seq. [\(Back\)](#)

**State Constitution reference**— Taxation and revenue, art. VIII. [\(Back\)](#)

**State Law reference**— Property taxes, V.T.C.A., Tax Code § 1.01 et seq.; local occupation taxes, V.T.C.A., Tax Code § 101.008; occupation taxes generally, V.T.C.A., Tax Code § 191.081 et seq.; local taxation, V.T.C.A., Tax Code ch. 301 et seq. [\(Back\)](#)

### **ARTICLE I. IN GENERAL**

[Secs. 90-1—90-30. Reserved.](#)

**Secs. 90-1—90-30. Reserved.**

### **ARTICLE II. PROPERTY TAXES**

DIVISION 1. - GENERALLY

DIVISION 2. - COMMERCIAL PROPERTY ASSESSED VALUE FREEZE

#### ***DIVISION 1. GENERALLY***

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**Sec. 90-31. Authority to levy property taxes.**

The city accepts, as authority for the adoption of property taxes, V.T.C.A., Tax Code § 302.001(c).

(Code 1978, § 23-1)

**Sec. 90-32. Tax exemption for the elderly.**

- (a) Fifteen thousand dollars of the assessed value of residence homesteads, as defined by law, of persons who have attained the age of 65 on or before January 1 of the year for which such exemption is claimed, shall be exempted from city ad valorem taxes.
- (b) In order to secure the benefit of the exemption, the over 65 resident homestead owner claiming such exemption shall, between 8:00 a.m. on January 1 and March 1 at 5:00 p.m. each and every year, file with the city tax assessor-collector, on forms furnished by the city tax assessor-collector, a sworn inventory of such property owner by such claimant on January 1 of each year for which such exemption is claimed, and shall initially furnish proof of age by certified copy of his birth certificate, or if such person does not have a birth certificate, by the affidavit of two persons at least five years older than the person claiming such exemption, who each have actual knowledge of the date and place of birth of such claimant, and by the original or certified copy of any two of the following records:
  - (1) Church baptismal certificate.
  - (2) Federal census record.
  - (3) State census record.
  - (4) Social security record.
  - (5) Own child's birth certificate.
  - (6) Original birth notice in a newspaper.
  - (7) School record.
  - (8) Insurance policy.
  - (9) Military record.
  - (10) Passport.
  - (11) Marriage record.
  - (12) Hospital record.
  - (13) Lodge record.
  - (14) Voter's registration record.
  - (15) Employment record.
  - (16) Physician's record or other record the nature of which is such that the facts of its existence, and the contents thereof, would create in the mind of a reasonably prudent person a presumption of the truth of its assertions.

(Code 1978, § 23-3; Ord. No. 2004-11-6, 1-10-05)

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**Sec. 90-33. Taxation of certain property otherwise exempt by state law.**

All of that property described in the Texas Constitution, Article VIII, Section 1-j, shall be fully taxable in the city.

(Code 1978, § 23-7)

**Secs. 90-34—90-55. Reserved.**

***DIVISION 2. COMMERCIAL PROPERTY ASSESSED VALUE FREEZE***

[Sec. 90-56. Generally.](#)

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**Sec. 90-56. Generally.**

The owners of historical or other qualified commercial buildings in the city may apply for a city assessed property value freeze on those buildings and their sites that are planned to undergo repair, renovation and/or restoration. The qualified land and building will continue to have an annual assessed value equal to the tax year immediately before the repairs, renovation and/or restoration was completed for the next three years following completion of the work. The freeze will begin the first day of the first tax year after verification of the repairs. For purposes of this division, the term "repairs" means work performed in accordance with building and construction codes of the city, and in accordance with the approval of the Alpine Main Street Design Review Committee. For purposes of this division, the term "historical commercial building" means any commercial building, 30 years or older. Buildings termed as "other" buildings are those that qualify under criteria of the Alpine Main Street Design Review Committee as approved main street projects.

(Ord. No. 98-1-2, § 1, 4-14-1998)

**Sec. 90-57. Eligibility.**

To be eligible for an assessed property value freeze, the property must meet all of the following conditions:

- (1) The property must be located within the city limits.
- (2) The property must contain an historical commercial building or other building as defined by this division.
- (3) At the time of application for the property's assessed value freeze, the exterior and/or the interior must be in need of repairs or renovation that exceed 15 percent of the assessed value of the structure, but in any case, not less than \$5,000.00 the year the work is to begin. Only that

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work for which a building permit has been issued may be counted in determining the value of the work.

- (4) All projects to be eligible for the assessed property value freeze must be reviewed and approved by the Alpine Main Street Design Review Committee.

(Ord. No. 98-1-2, § 2, 4-14-1998)

**Sec. 90-58. Application.**

An application for an assessed property value freeze must be filed with the city for review and qualification. The application will then be presented by a representative of the city to the county appraisal district office. Each application must be signed and sworn to by the owner of the property and must include the following information:

- (1) The legal description of the property.
- (2) Detailed plans and documents related to the proposed work showing how the repairs are in accordance with building and construction codes, and how work is in accordance with the criteria set forth by the Alpine Main Street Design Review Committee.
- (3) A statement and documentation of the costs for repairs of the exterior and interior of the building to show the costs for the repairs of the exterior and interior of the building exceed 15 percent of the assessed value, or a minimum of \$5,000.00.
- (4) A projection of the construction time and completion date of the repairs.

(Ord. No. 98-1-2, § 3, 4-14-1998)

**Sec. 90-59. Certificate of qualification.**

- (a) Upon completion of the repairs in accordance with the Alpine Main Street Design Review Committee, and/or the building and construction codes of the city, the owner shall submit to the city a sworn statement certifying the repairs have been completed.
- (b) If approved, the owner shall obtain a certificate of qualification for an assessed property value freeze from the City of Alpine Main Street Program. A certificate of qualification shall not be approved until the applicant files a commitment to immediately repay to the city all tax revenues not paid because of the property value freeze, if the owner is required to repay the taxes under section 90-60. The commitment must be approved by the city attorney and filed in the county deed records. The commitment shall run with the land and bind the owner, his heirs and assigns. Any unpaid repayment required under section 90-60 shall be a lien against the property.
- (c) Once the certificate of qualification is approved, it will be presented by a representative of the city to the county appraisal district office. The county appraisal district shall appraise the property in accordance with section 90-56.

(Ord. No. 98-1-2, § 4, 4-14-1998)

**Sec. 90-60. Destruction or alteration of historic landmark.**

If the Alpine Main Street Design Review Committee has reason to believe that an historic city landmark has been totally or partially destroyed, or altered by the willful act or negligence of the owner or his representatives, in violation of the preservation criteria contained in the policies of the Alpine Main

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Street Design Review Committee, the committee shall immediately cause the matter to be scheduled for the earliest possible consideration by the city council. If, after giving notice and hearing to the owner, the city council determines that the historic landmark has been totally or partially destroyed, or altered by the willful act or negligence of the owner or his representatives, the owner shall immediately repay to the city all of the tax revenues which were not paid because of the assessed property value freeze.

(Ord. No. 98-1-2, § 5, 4-14-1998)

**Secs. 90-61—90-85. Reserved.**

**ARTICLE III. HOTEL OCCUPANCY TAX <sup>[2]</sup>**

[Sec. 90-86. Definitions.](#)

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**Sec. 90-86. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Consideration* means the cost of the room in a hotel, only if the room is one ordinarily used for sleeping, and shall not include the cost of any food served, or personal services rendered, to the occupant of such room, not related to the cleaning and readying of such room for occupancy.

*Hotel* means a building in which members of the public obtain sleeping accommodations for consideration. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodginghouse, inn, roominghouse or bed and breakfast. The term "hotel" does not include a:

- (1) Hospital, sanitarium or nursing home; or
- (2) Dormitory or other housing facility owned or leased and operated by an institution of higher education, or a private or independent institution of higher education, as those terms are defined by V.T.C.A., Education Code § 61.003, used by the institution for the purpose of

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providing sleeping accommodations for persons engaged in an educational program or activity at the institution.

*Occupancy* means the use or possession, or the right to the use or possession, of any room in a hotel, if the room is one ordinarily used for sleeping and if the occupant's use, possession, or right to use or possession, extends for a period of less than 30 days.

*Occupant* means anyone, who, for a consideration, uses, possesses, or has a right to use or possess, any room in a hotel, if the room is one ordinarily used for sleeping.

(Code 1978, § 23-17)

**Cross reference**— Definitions generally, § 1-2.

**Sec. 90-87. Levy and assessment.**

There is levied and assessed a seven percent tax upon the cost of occupancy of any sleeping room furnished by any hotel within the city, where the cost of occupancy is at the rate of \$2.00 or more per day for the first 29 continuous days that the same occupant is entitled to the use and possession of such sleeping room. Should such occupant cease to be entitled to use and possess such sleeping room and thereafter become entitled to the use and possession thereof once again, such seven percent tax shall be levied and assessed for each first 29 days following the resumption of such right by such user.

(Code 1978, § 23-18)

**Sec. 90-88. Collection by owner or operator.**

The seven percent occupancy tax levied and assessed by section 90-87 shall be collected by the owner, operator, manager or controller of such hotel from each occupant of such sleeping room, at the same time as, and in addition to, the consideration paid by the occupant of the sleeping room to the hotel for such sleeping room, and in addition to all other costs, taxes and charges imposed or in connection with this section.

(Code 1978, § 23-19)

**Sec. 90-89. Quarterly report and payment, misdemeanor punishment; additional remedy, injunction from operating.**

- (a) For any hotel or other facility offering any sleeping room within the city limits and extraterritorial jurisdiction of the city, where the cost of occupancy is \$2.00 or more per day, each owner, operator or manager of such hotel or other commercial sleeping facility that is, by definition, subject to the hotel occupancy tax authorized by V.T.C.A., Tax Code ch. 351, and made applicable by city Ordinance No. 85-5-2, and continued as to all in-city hotels and other commercially operated sleeping quarters within the corporate limits and extraterritorial jurisdiction of the city, shall submit a written quarterly report to the tax assessor-collector of the city on or before January 31, April 30, July 31 and October 31, setting forth in such written quarterly report the total consideration for sleeping rooms, subject to this tax, received or collected by such hotel during the calendar quarter preceding the month in which each such quarterly report is made, and each such owner, operator or manager shall simultaneously, with such written quarterly report, pay to the tax assessor-collector of the city seven percent of the total consideration as reported for such three month period.

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- (b) Failure to make timely reports or payment, as set forth in this section, is a class C misdemeanor, punishable by a fine of \$500.00 for each day the report and payment are late. The city may bring suit against a person who is required to collect the tax imposed, and pay the collections over to the municipality, and who has failed to file a tax report or pay the tax when due, to collect the tax not paid, or to enjoin the person from operating the hotel until the tax is paid, or the report is filed as provided by court order. In addition to the tax owed, the person shall be liable to the city for the city's reasonable attorney's fees and a penalty equal to 15 percent of the total amount of the tax owed.

(Code 1978, § 23-20)

**Sec. 90-90. Depository and account designated.**

All funds received by the tax assessor-collector, as a result of the tax levied and assessed by this article, and paid to the tax assessor-collector pursuant to section 90-89, shall be deposited by the tax assessor-collector in a separate bank account at First National Bank in Alpine, or other designated depository of the city, which account or accounts shall be designated as the "Alpine Hotel Occupancy Tax Fund." The tax assessor-collector is further authorized to accept and receipt for voluntary tax funds or contributions from hotels outside of the city limits, which are not required to make reports or payments by this article; provided, such funds or contributions are designated for one or more of the uses and purposes set forth in section 90-91, and to deposit such funds or contributions in such account stated in this section.

(Code 1978, § 23-21)

**Sec. 90-91. Use of funds.**

All funds received as a result of the tax levied and assessed, and any other funds or contributions as set forth in section 90-90, may only be used for one or more of the following purposes, with the exceptions and/or limitations that the excess over four percent of the taxes collected may be used only for those purposes stated in subsections (1), (2) and (3) of this section; and though one percent of the total amount collected under this seven percent tax rate may be allocated to the purposes stated in subsection (4) of this section, if the one percent of the total seven percent is allocated to subsection (4) of this section, the excess over the one percent of what the tax would be if only four percent tax existed, as in Ordinance No. 80-102, must also come from the first four percent of the seven percent tax authorized in this section, as the excess over four percent of the seven percent tax can only be used for purposes of subsection (1), (2) or (3) of this section, as follows:

- (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 building, 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 the 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; however, no more than one percent of the tax may be used for the purposes permitted in V.T.C.A., Tax Code § 351.101(a)(4);
- (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

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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.

(Code 1978, § 23-22)

**Sec. 90-92. Administration responsibility of the city.**

The city shall be responsible for the administration and expenditures of the Alpine Hotel Occupancy Tax Fund and the city council may contract with one or more persons, groups or organizations, subject to the authority, conditions, provisions and limitations of V.T.C.A., Tax Code ch. 351, under the authority of which this article is passed and to which its various sections and subsections, allowances, restrictions and permissions reference is here made and is adopted in this section by reference, as the superior ruling authority and guide as to all matters appertaining to the levy, collection, administration and expenditure of such hotel occupancy tax fund.

(Code 1978, § 23-23)

**Sec. 90-93. Expenditure for promotional purposes.**

At least one percent of the cost of occupancy of hotel rooms, being one-seventh of the taxes collected, shall be reserved for the purpose of advertising and conducting solicitation programs to acquaint potential users with public meeting and convention facilities, and for promotion of tourism of the city and its vicinity, by the city, or through contract with persons or organizations selected by the city. The city may contract with one or more persons, groups, organizations or associations for the expenditure of a portion, or all, of such one percent of the cost of occupancy of hotel rooms in the city, being one-seventh of the occupancy tax collected, as long as at least this amount of such tax is reserved for the express purposes listed in this section and in V.T.C.A., Tax Code § 351.103(a)(2). The city may use, for such purposes, a portion of such one percent, being one-seventh of the taxes collected, and may through contract with one or more persons, or one or more organizations, or both, that are selected by the city, for the express purposes set out in this section. Such contract may provide for a portion, or all, of the remaining three percent of the cost of occupancy of hotel rooms to be used for other purposes provided for in V.T.C.A., Tax Code ch. 351, by anyone of such person, persons or organization that contracts with the city to expend all, or a portion of, the mandated one percent of the cost of hotel occupancy in the city; however, the aggregate of all the contracts made by the city for such uses mandated by V.T.C.A., Tax Code § 351.103(a)(2), together with the portion of such one percent retained by the city to use for the express purposes stated in this section, shall never be less than one percent of the cost of occupancy of hotel rooms in the city.

(Code 1978, § 23-24)

**Sec. 90-94. Expenditure and administration agreements subject to cancellation by city council.**

- (a) Any agreement, contract or allotment of such funds, of any kind or nature, made by the city with, or to, any person, persons or organization, under the authority of V.T.C.A., Tax Code ch. 351, for the administration or expenditures of any of the hotel occupancy tax funds, shall be subject to cancellation by the city council at any time, and no expenditures of any of such funds shall be made by any such party under any agreement with the city unless such expenditures are for purposes

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permitted by V.T.C.A., Tax Code ch. 351. The city council may revise, change, alter, amend or cancel such agreement at any time the city council deems it to be in the best interest of the city, and/or the more effective and/or efficient use of such funds to do so. No agreement, allotment of funds or contract with any person, persons or organization for the administration, expenditure or allotment of funds shall be for a base, or any renewal, period of more than one year. Any such agreement shall automatically end at the end of such one-year period unless the person, persons or organization then under agreement with the city shall at a time not less than 30 days before the end of the current agreement term, request the city council to extend such agreement, or contract, for an additional period, not to exceed one year from the end of the current term. The city council may refuse to renew such agreement or contract, may change, alter or amend the agreement or contract, in whole or in part, and no party to such an agreement shall have any status to contest the council's action, there being no person, persons or organization with whom the city council may elect to agree with to administer and/or expend any of such hotel occupancy tax funds that shall have any vested or monetary interest therein and any such person, persons or organization who may volunteer, advise with, aid and expedite the administration, expenditure and/or allotment of such tax funds, shall do so only under the direction of, and with the express consent of, the city council. No termination, change or alteration of any such agreement shall prohibit the city from thereafter entering into any agreement with any person, persons or organizations who has, or have, previously refused to aid in the administration and/or expenditures of any of such tax funds under the council's altered, amended, changed or terminated agreement.

- (b) Upon receipt of any notice from the city council of any proposed change, alteration or termination of any such existing agreement by any other such party to such an agreement, such other party, under authority of this article, shall not expend any hotel tax funds previously allotted to such party, but not spent at the time such notice is received, until any such proposed additional expenditures are approved by the city council, mayor, city manager or finance officer, until the matter prompting such notice has been cleared by council action. At any time it is determined to be in the best interest of the administration of such funds, the city and/or the hotel tax expenditure program to do so, the city may notify the depository bank of any such allotted funds that such bank is to honor no further checks from such account, or otherwise disburse any funds from such account, until such payment or disbursement is authorized by the city, mayor, city manager or finance officer, except such checks that are, or may be drawn by check executed by any authorized two city officials and/or employees, being the mayor, city manager and finance officer. Each contracting party's bank account shall permit withdrawal from such account only by those whose signatures appear on the account's signature authorization card which have been approved by resolution of the city council. The city manager, joined by the mayor and/or the city finance officer, or any two of the three, shall be authorized to withdraw by check, any or all funds from any such party to any such agreement's account at any time such action has been authorized by council resolution.

(Code 1978, § 23-25)

**Sec. 90-95. Agreements contrary to federal, state laws; voluntary contributions.**

The city council shall make no contract or agreement with any person, group or agency that unlawfully delegates any authority that is, by state or federal law, or by the state or federal constitution, exclusively the duty and obligation of the city council, and no valid contract may be made with any individual, group, organization, business or committee which is contrary to the authority manifest in V.T.C.A., Tax Code ch. 351, including, but not limited to, the failure to reserve at least one-seventh of such taxes collected, being one percent of the cost of occupancy of hotel rooms, including voluntary contributor hotels not obliged to, but who voluntarily do, contribute to such funds. Voluntary contributions made by persons, firms, corporations, organizations or groups for any specified use or purpose provided for in V.T.C.A., Tax Code ch. 351, and accepted by the city council, shall only be used for such purpose, or purposes, for which such contributions are made, and any such contribution shall be receipted for, to

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such contributor, by the city finance officer, tax collector, mayor or city manager, and deposited in an account separate from the hotel occupancy tax fund. A record shall be kept by the finance officer of the amount and date of any such voluntary contribution, which may be withdrawn only upon council resolution, except voluntary occupation tax payments, to be used only for the purpose, or purposes, for which such funds were contributed by other than taxpayers required by law to pay such occupancy tax, or who do so voluntarily. Contributing noncity hotels, who are not required to collect such tax, may earmark any contribution made to be used for one or more of the purposes stated in this section.

(Code 1978, § 23-26)

**Sec. 90-96. Authorization required for contracting with third parties.**

No party with whom the city may contract under this article, nor any other person, firm or corporation, shall be authorized to obligate the city for any indebtedness, or other obligation to any third party, or parties, without express written authorization of the city council. Any such obligation, or debts, incurred by any contracting party, or other party, without the express written authority of the city council, shall be null, void and of no force and effect, as against the city or such tax fund, either deposited or in a contractee's possession.

(Code 1978, § 23-27)

**Sec. 90-97. Authority to modify, cancel or repeal article.**

This article, or any contract made under authority of this article, may be modified, cancelled or repealed by the city council at any time, in whole or in part, and no person or organization shall have grounds to object thereto, none having any vested rights to do so under this section.

(Code 1978, § 23-29)

**Sec. 90-98. Applicability and enforcement in city's extraterritorial jurisdiction.**

The sections and provisions of this article shall extend and be enforced within the area of the city's extraterritorial jurisdiction as provided by V.T.C.A., Tax Code § 351.0025(a).

(Code 1978, § 23-30)

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FOOTNOTE(S):

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**State Law reference—** Municipal hotel occupancy taxes, V.T.C.A., Tax Code ch. 351. ([Back](#))