

Deadlines When the Tax Rate Does Not Exceed the Voter-Approval Rate

These are absolute deadlines and assume the city waits until the last minute for each step. In most cases the city would be well-advised to act in advance of these dates. This memo will be updated with any relevant changes made by the 88th Legislature.

Tuesday, July 25: Tax Rolls Due

Chief appraiser must deliver the certified appraisal roll or certified estimate of taxable value to assessor. TEX. TAX CODE § 26.01(a).

Note - Estimated Tax Values: A chief appraiser may submit a certified estimate of taxable value in lieu of a certified appraisal roll if the appraisal review board for the appraisal district does not approve the appraisal records for the district by July 20. TEX. TAX CODE § 26.01(a-1). If the assessor receives a certified estimate of taxable values, the officer or employee designated by the city council must calculate the no-new-revenue tax rate and voter-approval tax rate using the estimate. *Id.* § 26.04(c-2).

Monday, August 7: Submit Tax Rates to City Council

The designated officer or employee must submit the no-new-revenue and voter-approval tax rates to the city council by this date, or as soon thereafter as practicable. TEX. TAX CODE § 26.04(e). The designated officer or employee must post the calculated no-new-revenue tax rate and voter-approval tax rates, along with certain debt information, on the home page of the city's website in the form prescribed by the comptroller. *Id.*

Note – Comptroller Rate Calculation Forms: The designated officer or employee shall use the tax rate calculation forms prescribed by the comptroller in calculating the no-new-revenue and voter-approval tax rates. TEX. TAX CODE § 26.04(d-1). These rates may not be submitted to the city council, and the city council may not adopt a tax rate, until the designated officer or employee certifies on the tax rate calculation forms that the person has accurately calculated the tax rates and used values from the city's certified appraisal roll in performing the calculations. *Id.* § (d-2). As soon as practicable after the designated officer or employee calculates the no-new-revenue tax rate and the voter-approval tax rate for the city, the designated officer or employee shall submit the tax rate calculation forms used in calculating the rates to the county assessor-collector for each county in which all or part of the city is located. *Id.* § 26.04(d-3).

Note – De Minimis Rate Calculation: A city with a population of less than 30,000 has an additional option with regard to a tax rate: the “de minimis” rate. Put simply, this is a rate that will impose an amount of taxes equal to \$500,000 more than the previous year, while taking the debt rate into account. TEX. TAX CODE § 26.012(8-a). While there is no requirement that the designated officer or employee calculate the de minimis rate, the city will need to know this rate to take advantage of it. Cities are encouraged to communicate with their designated officer or employee in advance of this date to confirm the calculation of the de minimis rate.

Tuesday, August 29: Deadline to File Proposed Budget

This is the last day for the city’s budget officer to file a proposed budget with the municipal clerk if the city plans to wait until September 29 to adopt the tax rate. TEX. LOC. GOV’T CODE § 102.005 (*before the 30th day before the date the tax rate is adopted* – thus, if a city plans to adopt its tax rate before September 29, the proposed budget must be filed sooner).

Note - Budget Cover Page: The proposed budget must contain a special cover page if the budget will raise more revenue from property taxes than the previous year. TEX. LOC. GOV’T CODE § 102.005(b). The city secretary must post the proposed budget on the city’s website if the city maintains one. TEX. TAX CODE § 26.18(5). Additionally, the proposed budget must include a line item comparing expenditures in the proposed budget and actual expenditures in the preceding year for: (1) notices required to be published in the newspaper; and (2) directly or indirectly influencing or attempting to influence the outcome of legislation or administrative action. TEX. LOC. GOV’T CODE § 140.0045.

Monday, September 18: Deadline to Publish Notice of Budget Hearing in the Newspaper

This is last day to publish notice of budget hearing. TEX. LOC. GOV’T CODE § 102.0065 (not later than 10th day before the budget hearing). Note that the notice may not be published earlier than the 30th day before the hearing making August 29 the earliest date possible for publication for a September 28 budget hearing.

Note – Required Notice Language: The budget hearing notice must contain specific information about property tax increases. TEX. LOC. GOV’T CODE §102.0065(d).

Friday, September 22: Proposed Tax Rate Approval

City council should hold a record vote approving a proposed tax rate. Although there is not a statutorily defined procedure for the city council to follow in determining the proposed tax rate, this date effectively serves as the deadline, as the required notices of the tax rate hearing include the proposed tax rate (see note below).

Friday, September 22: Internet and Television Notice of Tax Rate Hearing

If the proposed tax rate will exceed the no-new-revenue rate, continuous notice of the tax rate public hearing begins on the internet and television,. TEX. TAX CODE § 26.065. The notice must be posted continuously for at least seven days immediately before the public hearing on the proposed tax rate increase and at least seven days immediately before the date of the vote proposing the increase in the tax rate. *Id.*

Note – Specific Content Requirements: For content of the Internet and television notice, see Sections 26.06(b-1), (b-2), and (b-3) of the Tax Code.

Note – Record Vote Required: The required notice of the tax rate hearing requires the names of all members of the governing body, showing how each voted on the proposed tax rate and indicating the absences, if any, during the vote on the proposed tax rate. TEX. TAX CODE §§ 26.06(c) and 26.061.

Note – Special Notice Provisions: The tax rate notice requirements for a city change when the de minimis rate exceeds the voter approval rate. *Id.* § 26.063. Note that, in the unlikely event that a city with a population of less than 30,000 has a de minimis rate that does not exceed its voter-approval rate, these alternate notice provisions are not available to the city.

Note – Low Tax Levy Cities: A city that has a “low tax levy” under Section 26.052 of the Tax Code (i.e. a city that levies under \$500,000 in total property taxes and has a tax rate under \$.50 per \$100 of valuation) may choose to provide notice of its tax rate under that section instead of Sections 26.04(e) and 26.06. A “low tax levy” city that chooses to provide notice under Section 26.052 is not required to hold a public hearing on the tax rate; however, the city is required to provide mailed or published notice of the tax rate no later than seven days before the date the city adopts the tax rate. *Id.* § 26.052(c). If the city chooses to publish notice of the tax rate in the newspaper, the city must also provide public notice of its proposed tax rate by posting notice of the proposed tax rate, along with the information in Section 26.052(e) of the Tax Code, prominently on the home page of the city’s website.

Sunday, September 24: Notice of Tax Rate Hearing or Meeting to Adopt Tax Rate

Last day to **publish notice of the tax rate hearing**, if the proposed tax rate will exceed the no-new revenue rate (the public hearing may not be held before the fifth day after the date the notice of the public hearing is given). TEX. TAX CODE § 26.06(a).

Last day to **publish notice of the meeting to adopt the tax rate**, if the proposed tax rate will not exceed the no-new-revenue rate. *Id.*

Note – Notice Requirements: The notice may be delivered by mail to each property owner or may be published in a newspaper. TEX. TAX CODE § 26.06(c). If the notice is published in the newspaper, the city must also post the notice prominently on the home page of the city’s website from the date the notice is first published until the public hearing is concluded. *Id.* The notice must be in the form prescribed by Sections 26.06 or 26.061 of the Tax Code, and must include the table described in Section 26.062 of the Tax Code. For the content of published notice, see sections 26.06(b-1), (b-2), and (b-3) of the Tax Code.

Thursday, September 28: Budget Hearing

This is the last day for the city to conduct a hearing on the budget. TEX. LOC. GOV’T CODE § 102.006(b) (hearing shall be before the date of the tax levy). Note that the hearing must be held after the 15th day after the proposed budget is filed with the clerk.

Note – Action Required: The city must take some sort of action on the budget at the conclusion of the hearing. TEX. LOC. GOV’T CODE § 102.007. This action could be the adoption of the budget, or a vote to postpone the final budget vote. It is generally accepted that the city need not adopt the budget at the end of the hearing.

Friday, September 29: Budget Adoption

The city should adopt the budget no later than this date. TEX. LOC. GOV’T CODE § 102.009 (because the city may only levy taxes in accordance with budget, and because the levy cannot take place later than September 29 (see note below), this is the effective deadline for budget adoption in cities with a property tax). A vote to adopt the budget must be a record vote. *Id.* §102.007(a).

Note – Separate Ratification Vote Requirement: City council must take a separate ratification vote to adopt any budget that will raise total property tax revenue. TEX. LOC. GOV’T CODE § 102.007(c).

Note – Specific Content: The adopted budget must contain a special cover page that includes: (a) a specific statement on whether the budget raises more, less, or the same amount of property tax revenue compared to the previous year’s budget; (b) the record vote of each member of the city council by name voting on the adoption of the budget; (c) the city property tax rates for the preceding and current fiscal years, including the adopted rate, no-new-revenue tax rate, no-new-revenue maintenance and operations tax rate, voter-approval tax rate, and debt rate; and (d) the total amount of city debt obligations secured by property taxes. TEX. LOC. GOV’T CODE § 102.007(d). The adopted budget, including the cover page, must be posted on the city’s website if the city has one. *Id.* § 102.008(a)(2). City council shall include as an appendix to the city’s budget for a fiscal year the tax rate calculation forms used by the designated officer or employee to calculate the city’s no-new-revenue tax rate and the voter-approval tax rate for the tax year in which the fiscal year begins. TEX. TAX CODE § 26.04(e-5).

Friday, September 29: Tax Rate Adoption: Meeting or Public Hearing

This is the last day the city may adopt a tax rate. If a public hearing is required, the hearing must be held on a weekday that is not a public holiday. TEX. TAX CODE § 26.06(a).

Note – When a Hearing is Required: A public hearing is required only if the proposed tax rate exceeds the lower of the no-new-revenue rate or the voter-approval rate, i.e., if the proposed tax rate would raise more revenue from property taxes than the prior year.

Note – Earliest Possible Dates for Hearing: City council may not hold its public hearing or public meeting to adopt a tax rate until the fifth day after the date the chief appraiser of each appraisal district in which the city participates has delivered its tax estimate notice under Section 26.04(e-2) of the Tax Code and made various types of tax rate information and the tax rate calculation forms available to the public via the property tax database under Section 26.17(f) of the Tax Code. TEX. TAX CODE. § 26.05(d-1).

Note – Rate Adoption at Hearing: City council may vote on the proposed tax rate at the public hearing. If the city council does not vote on the proposed tax rate at the public hearing, the city council shall announce, at the public hearing, the date, time, and place of the meeting at which council will vote on the proposed tax rate, and that meeting may not be held later than the seventh day after the date of the public hearing. TEX. TAX CODE § 26.06(e). This provision does not authorize a city to adopt a tax rate later than September 29.

Note – Sixtieth Day Alternative: A city may adopt a tax rate by this deadline or by the 60th day after receipt of appraisal roll, whichever is later. TEX. TAX CODE § 26.05(a). Please note that if the city uses the 60-day rule, almost every date in this memo would need to be recalculated.

Note – Separate Votes for M&O and Debt Components: City council must separately approve the maintenance and operations component and the debt service component of the tax rate. TEX. TAX CODE § 26.05(a).

Note – Rate Adoption Motion: The motion to adopt a tax rate that exceeds the no-new-revenue rate must be made precisely as follows: “I move that the property tax rate be increased by the adoption of a tax rate of (specify tax rate), which is effectively a (insert percentage by which the proposed tax rate exceeds the no-new-revenue tax rate) percent increase in the tax rate.” If the tax rate will exceed the no-new-revenue tax rate, the vote on the ordinance setting the tax rate must be a record vote and must be approved by at least 60 percent of the members of the city council. TEX. TAX CODE § 26.05(b). Section 26.05 of the Tax Code contains several other precise requirements regarding notice in the tax rate ordinance itself that must be complied with if the city adopts a rate exceeding the no-new-revenue tax rate.

Note – Failure to Adopt Tax Rate: The tax rate of a city that fails to adopt a tax rate before the statutory deadlines is limited to the lower of the voter-approval tax rate or the no-new-revenue tax rate. TEX. TAX CODE § 26.05(c).