



COUNCIL REPORT

DATE: November 12, 2024

CATEGORY: New Business

DEPT.: Finance and Administrative Services

TITLE: **Amendment to Transient Occupancy Tax Ordinance**

RECOMMENDATION

Introduce an Ordinance of the City of Mountain View Amending Chapter 33 of the Mountain View City Code to Add Additional Efficient Mechanisms for Collection of Transient Occupancy Tax, to be read in title only, further reading waived, and set a second reading for December 10, 2024 (Attachment 1 to the Council report).

BACKGROUND

Chapter 33 of the City of Mountain View City Code (Code) governs the collection of transient occupancy tax (TOT) by operators in the City. The Code requires a TOT of 10% of the rent charged by the operator, to be collected and remitted to the City on a quarterly basis. Included in the Code is recourse available to the City if an operator is delinquent or fails to remit TOT to the City, including the ability to levy penalties and interest on the delinquent amount. Currently, according to the Code, the City's sole remedy for collection of unpaid and delinquent TOT is to initiate affirmative litigation against the hotel operator. This can be a lengthy and costly process for the City.

In order to strengthen the City's position of collection of unpaid and delinquent TOT, staff is recommending an amendment to Chapter 33 of the Code, which is included in the ordinance (Attachment 1).

ANALYSIS

The proposed ordinance would provide additional mechanisms to address delinquencies in the payment of the TOT. The ordinance will amend the Code to authorize the tax administrator (Director of Finance and Administrative Services) to record a certificate of lien within four years after the recording on the property and any other real property owned by the hotel operator in the amount owed, including interest and penalties. Once the lien is recorded, the tax administrator may obtain a court order for enforcement and collection, without the need for litigation.

As an alternative to the court order, at any time within four years after an assessment was issued or a lien was recorded, the tax administrator may collect the delinquent amount by seizing and selling the delinquent operator's property to satisfy the lien. In addition, the ordinance authorizes the seizure and sale of real or personal property owned by the delinquent operator that is not exempt from execution under the provisions of the Code of Civil Procedure to pay the delinquent amount.

If the unpaid and delinquent TOT is not resolved, the lien will continue in effect for 10 years and may be enforceable at the time of sale or transfer of the operator's real property.

In summary, the proposed amendment to the TOT Code would make the following changes:

- a. Allow the City to record a certificate of lien for outstanding TOT;
- b. Allow the City to issue a tax clearance certificate to a successor operator, purchaser, transferee, or other person or entity, which states the amount of tax liability due or stating there is no tax liability due;
- c. Allow enforcement by seizure and sale of hotel property; and
- d. Allow imposition of TOT liability on successor owners consistent with state law.

FISCAL IMPACT

This ordinance will not have an immediate fiscal impact. However, amending the City of Mountain View Code, Chapter 33, would provide the City with more efficient options to collect unpaid and delinquent TOT, thus improving the City's TOT collection rate. In the event that the City's collection efforts are unsuccessful, the City would pay a modest fee to record a lien with the County, which would be absorbed within the City's operating budget, however this fee is substantially lower than the cost of litigation so the City should be able to expend fewer resources to collect TOT over time.

LEVINE ACT

California Government Code Section 84308 (also known as the Levine Act) prohibits city officials from participating in any proceeding involving a "license, permit, or other entitlement for use" if the official has received a campaign contribution exceeding \$250 from a party, participant, or agent of a party or participant in the proceeding within the last 12 months. A city official is similarly prohibited from accepting, soliciting, or directing a campaign contribution exceeding \$250 from a party, participant, or agent of a party or participant to any proceeding involving a

license, permit, or other entitlement for use for 12 months after a final decision is rendered in said proceeding.

Please refer to the “X” in the checklist below for information about whether the recommended action for this agenda item is subject to or exempt from the Levine Act.

SUBJECT TO THE LEVINE ACT

- Land development entitlements
- Other permit, license, or entitlement for use
- Contract or franchise

EXEMPT FROM THE LEVINE ACT

- Competitively bid contract
- Labor or personal employment contract
- General policy and legislative actions

For more information about the Levine Act, please see the Fair Political Practices Commission website: www.fppc.ca.gov/learn/pay-to-play-limits-and-prohibitions.html.

ALTERNATIVES

1. Decline to amend Chapter 33 of the Mountain View City Code.
2. Provide other direction.

PUBLIC NOTICING—Agenda posting.

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AM-DR/4/CAM/546-11-12-24CR
204616

Attachment: 1. Ordinance