

# Basic Legal Requirements for the Budget and Tax Rate

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## What are We Talking About?

### Budget Adoption

- Budget Creation
- Budget Hearing
- Budget Adoption
  - Timelines & Notice Requirements
  - Qs and As



### Tax Rate Adoption

- Tax Rates (So many rates!!)
  - *Revenue* is the starting point
- Proposed Rate
- Tax Rate Hearing
- Tax Rate Adoption
  - Timelines & Notice Requirements
  - Qs & As



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## Oxford English Dictionary

- “Budget” means:
  - A statement of the probable revenue and expenditure for the ensuing year, with financial proposals founded thereon, annually submitted by the chancellor of the exchequer on behalf of the ministry, for the approval of the House of Commons. Sometimes put for the condition of national finances as disclosed in the ministerial statement; Also for the financial measures proposed. Hence applied to an analogous statement made by the finance minister of any foreign country; **Also to a prospective estimate of receipts and expenditure, or financial scheme, of a public body, or of an individual.**



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## We're not in Oxford Anymore...

*Texas* City Budget Regulations:

- Tex. Loc. Gov't Code Chapter 102
- City Charters
- City ordinances and policies
- Interplay with other law



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## Who is the Budget Officer?

- The “Budget Officer” is either the Mayor or City Manager (TLGC § 102.001)
- They are the person tasked with:
  - Preparing the budget (§ 102.002)
  - Itemizing the budget (§ 102.003)
  - Gathering Information (§ 102.004)
  - Filing the proposed budget with city secretary (§ 102.005)
  - Provide for the filing of the approved budget and any amendment with county clerk (§ 102.009).



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## Proposed Budget

- Prepared by Budget Officer
- Must be filed with city secretary at least 30 days before adoption of property tax rate and be available for public inspection (102.005)
- Posted on city’s website or other website (Tax Code 26.018)
- Cover sheet if proposed budget raises more from property taxes than in previous year (102.005)



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## What must be included in the budget?

- TLGC § 102.003 requires:
  - Itemized **comparison** between expenditures in the proposed budget and in the preceding year
  - Must show the estimated amount of money for each project or expenditure
  - A **financial statement** that shows:
    - Outstanding obligations
    - Cash on hand in each fund
    - All funds received during preceding year
    - All funds available for ensuing year
    - Estimated revenue available to cover proposed budget
    - Estimated tax rate needed to cover proposed budget



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## Other Laws...

- Proposed budget must include line item comparing expenditures in proposed budget and actual expenditures in preceding year for:
  - Notices required to be published in the newspaper (TLGC § 140.0045(1))
  - Directly or indirectly influencing or attempting to influence the outcome of legislation or administrative action (TLGC § 140.0045(2))



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## Budget Hearing

- Governing Body must hold a hearing on the proposed budget (§ 102.006).
  - After the 15th day after proposed budget filed with city secretary, but
  - Before date of the tax levy
- Notice of Hearing (§ 102.0065):
  - Must be published in paper between 10 and 30 days before the hearing
  - Include statement if budget requires more revenue from property taxes than the previous year
- Action must be taken at end of hearing (§ 102.007)



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## Budget Adoption

- Budget adopted after budget hearing but before tax rate adoption
- Must be a record vote. (§ 102.007(a))
  - City “may levy taxes only in accordance with the budget” (§102.009(a))
- Separate ratification vote if budget raises more money from property tax than in previous year (§ 102.007(c))
- Cover sheet for adopted budget (§ 102.007)
  - Statement if budget raises more, less, or the same amount of property taxes as previous budget
  - various tax rates included on cover sheet
  - Posted on website (§ 102.008 & Tax Code § 26.018)



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## Budget Amendments

- After approval, the governing body may only spend money in “strict compliance” with the budget. (§ 102.009)
  - Always feasible??
  - Emergency Exception
- Budget Amendments (§ 102.009(c)):
  - Grave public necessity (Emergencies again?)
  - To meet an unusual or unforeseen and unforeseeable condition.
- Changes for municipal purposes (§ 102.010)



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## A Few Qs...

- How many “workshops” does council have to hold?
- What’s the quorum for a budget hearing or other budget meeting?
- Does approval of the budget automatically approve actual spending on projects without further council action?
  - Corollary: If my advisory board has an amount budgeted to it, does that mean my board can spend that money on whatever we want??



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## Failure to Comply With State Law



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## Property Tax Rate Setting Process



- Governed by Chapter 26 of the Tax Code
- Premised on concept of Truth in Taxation
- Property tax rate consists of maintenance and operations and debt service (M&O + I&S)



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## Tax Rate Terms to Know

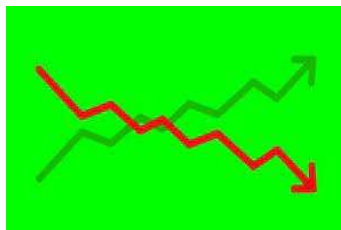
- No-new-revenue rate
- Voter-approval rate
- Unused increment rate
- De-minimis rate



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## No-new-revenue tax rate

- NNR: The rate that produces the same amount of revenue that was produced last year from the same properties
- Varies in inverse proportion to property values.



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## Voter-approval tax rate

- The rate that would produce the same amount of revenue as last year plus 3.5%, plus the unused increment rate, plus the debt rate.
- This is the rate that triggers an automatic election if the city exceeds it.
- This is calculated differently for a special taxing unit



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## Unused increment rate

- “Banks” revenue that cities could have raised by adopting a tax rate in preceding years equal to the voter-approval rate.



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## De minimis rate

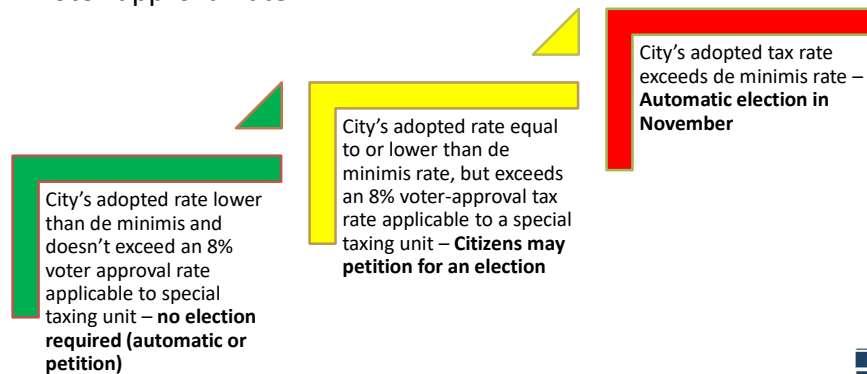
- Firetruck exception
- This is the no-new-revenue rate plus a rate that would raise \$500,000.



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## De Minimis Rate, Illustrated

The following applies to a city with a population under 30,000 and assumes the de minimis rate exceeds the 3.5 percent voter-approval rate:



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## Tax Rate Adoption Timeline

- 1. July 25<sup>th</sup> – Chief Appraiser certifies the appraisal roll or provides a certified estimate to county assessor-collector.**
  - Designated officer or employee uses roll or estimate to calculate no-new-revenue rate and voter-approval rate.



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## Tax Rate Adoption Timeline

- 2. August 7<sup>th</sup> – Designated officer or employee must submit tax rates to city council.**
  - Also, city must provide website notice of tax rates, M&O and I&S balances, and debt obligation schedule posted to city's website.
  - As soon as practicable after the designated officer or employee calculates the city's tax rates, 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.



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## Tax Rate Adoption Timeline

**3. Notice of Tax Rate Hearing and Tax Rate Hearing.** If city adopts tax rate exceeding no-new-revenue rate, must hold a hearing at least five days after notice is given.

- Exception for “low tax levy” city
- Contents of notice
- Notice mailed or published/posted online
- Only one hearing and tax rate can be adopted at conclusion of hearing



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## Tax Rate Adoption Timeline

### 4. Tax Rate Adoption

- **August 28** -last day to adopt a tax rate exceeding the voter-approval tax rate (**August 21** if election required)
- **September 29** – Last day to adopt tax rate that doesn’t exceed voter-approval tax rate
  - 60 percent of governing body must vote in favor of tax rate that exceeds no-new-revenue rate
  - M&O and I&S approved separately
  - Numerous other “truth-in-taxation” requirements for rate exceeding no-new-revenue rate



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## Failure to Comply With State Law



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## Contacts

- TML Legal Department
  - (512) 231-7400
  - [legalinfo@tml.org](mailto:legalinfo@tml.org)
- Texas Comptroller of Public Accounts, Property Tax Assistance Division
  - [comptroller.texas.gov](http://comptroller.texas.gov)



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