

CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

333 WEST OCEAN BOULEVARD • LONG BEACH, CALIFORNIA 90802

May 24, 2005

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Declare the Ordinance, amending the Long Beach Municipal Code by amending Chapter 3.64 relating to transient occupancy tax, read the first time and laid over to the next regular meeting of the City Council for final reading.

DISCUSSION

In recent years, State law, as well as Internet and computer technology, have changed and require the City to amend Chapter 3.64 of the Long Beach Municipal Code in regards to Transient Occupancy Tax (TOT). This ordinance clarifies the intent of the existing chapter, taking into account recent changes in State law and technology, and does not represent any change in the rate or amount of the tax, or the persons taxed; and it does not increase the amount of tax paid by any transient visiting the City.

The following summarizes the proposed revision to Chapter 3.64, Transient Occupancy Tax, of the Long Beach Municipal Code:

- The definitions of Guest Room, Hotel, Occupancy, Operator and Rent are clarified to remove ambiguity.
- Clarifies that a "Secondary Operator" has the same duties and responsibilities as the principal operator of the hotel for collecting TOT. The definition of Secondary Operator includes on-line hotel reservation services.
- Provides for a Tax Clearance Certificate (a new State law) for the purchaser of a hotel to establish that the hotel has no unpaid taxes to the City; adds an administrative fee of \$100 an hour (not to exceed \$1,500) to cover the cost of a City audit and issuance of the Tax Clearance Certificate.
- Clarifies that TOT cannot be included in the rent, that it must be itemized separately on the hotel bill.
- Expands on refund procedures. Clarifies that refunds of TOT come from the fund into which it was originally deposited.
- Allows for the City to collect four years unpaid taxes (a new State law). Presently the City goes back three years.
- Requires the hotel operator to keep records for five years to facilitate auditing four years' tax returns.

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- Adds some documentation requirements that are already being followed by most hotels, such as guest registration cards that are prenumbered with consecutive numbers that must be accounted for.
- Provides for TOT tax hearing and appeal procedures with appeal fees, similar to those procedures provided for business license tax.
- Makes the hotel operator, who collected TOT and held it in trust for the City, personally liable for any unpaid tax, when the hotel ceases operations.
- Provides for property liens, following a resolution of the City Council, for unpaid taxes.
- Adds a 1 percent per month penalty to past due TOT, starting at 60 days past due. Presently the late penalty reaches 50 percent at 60 days past due and there is no further financial incentive to pay.
- Provides for the hotel operator to pay for the cost of the City audit (not to exceed \$1,500), when the audit discloses underreporting or underpayment of 10 percent or more of the tax.

These changes are necessary to remain current with State law, to keep abreast of changing technology, and to facilitate audit procedures that ensure each hotel is collecting and remitting its fair share of the TOT.

This matter was reviewed by Deputy City Attorney Carol Shaw on May 10, 2005 and Budget Management Officer David Wodynski on May 13, 2005.

TIMING CONSIDERATIONS

Action on this item is not time critical.

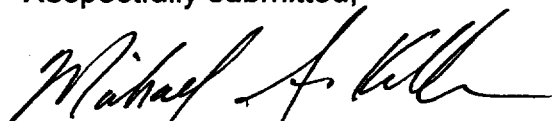
FISCAL IMPACT

There is no fiscal impact associated with this item.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



MICHAEL A. KILLEBREW
DIRECTOR OF FINANCIAL MANAGEMENT

APPROVED:



GERALD R. MILLER
CITY MANAGER

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ATTACHMENT