CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: **Tax Department**

AGENDA DATE: **Introduction: February 11, 2013**
Public Hearing: February 19, 2013

CONTACT PERSON NAME AND PHONE NUMBER: David Childs, PH.D., Tax Assessor Collector, 541-4598

DISTRICT(S) AFFECTED: All

SUBJECT:
Discussion and action on an Ordinance amending Title 3 (Revenue and Finance), Chapter 3.04 (Property Taxes), Section 3.04.050 (Delinquent Taxes – Installment Payments) of the El Paso City Code to grant the Tax Assessor the authority to require an initial down payment before or at the time of execution of an installment payment agreement and to prosecute pending tax suits filed prior to the execution of an installment payment agreement and defer enforcement of judgment of such suit for installment payment plans that are current. (All Districts) [Dr. David Childs, City Tax Office 915-541-4532]

BACKGROUND / DISCUSSION:
Attached is the proposed ordinance to amend Title 3 Revenue and Finance, Chapter 3.04 (Property Taxes), Section 3.04.050 (Delinquent Taxes – Installment Payments). Proposed changes to the ordinance will address the following:

1. The current ordinance does not have language stating that the tax assessor could require an initial down payment before or at the time an installment payment agreement is executed. This has the practice in the past and the amendment aligns the ordinance with this practice of requiring an initial down payment.

2. The current ordinance stated that in the case where there was a suit filed prior to the execution of an installment payment agreement the City would withhold prosecution of the suit. Outside legal counsel has recommended that this practice places the law suit on hold and that the courts dislike keeping cases on hold. With the amendment the City will be able to prosecute any pending law suits to judgment. If a person agrees to a payment plan after the suit is filed, then any judgment is not enforced by the City as long as the person honors the installment agreement. In addition, prosecuting pending law suits to judgment will preserve the City's tax lien.

PRIOR COUNCIL ACTION:
N/A

AMOUNT AND SOURCE OF FUNDING:
N/A

BOARD / COMMISSION ACTION:
Enter appropriate comments or N/A

N/A

**********REQUIRED AUTHORIZATION**********

DEPARTMENT HEAD: David Childs
(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 3 (REVENUE AND FINANCE), CHAPTER 3.04 (PROPERTY TAXES), SECTION 3.04.050 (DELINQUENT TAXES- INSTALLMENT PAYMENTS) OF THE EL PASO CITY CODE TO GRANT THE TAX ASSESSOR THE AUTHORITY TO REQUIRE AN INITIAL DOWN PAYMENT BEFORE OR AT THE TIME OF EXECUTION OF AN INSTALLMENT PAYMENT AGREEMENT AND TO PROSECUTE PENDING TAX SUITS FILED PRIOR TO THE EXECUTION OF AN INSTALLMENT PAYMENT AGREEMENT AND DEFER ENFORCEMENT OF JUDGMENT OF SUCH SUIT FOR INSTALLMENT PAYMENT PLANS THAT ARE CURRENT.

WHEREAS, the Texas Tax Code Section 33.02 authorizes the tax collector for a taxing unit to enter into an agreement with a person delinquent in the payment of the tax for payment of the tax, penalties, and interest in installments; and

WHEREAS, Title 3, Chapter 3.04, Section 3.04.050 of the City Code was adopted to permit the taxpayers to enter into installment payment agreements for delinquent property taxes with the City subject to certain conditions; and

WHEREAS, the City withholds the prosecution of delinquent tax suits as long as the tax payer is current on the payment schedule; and

WHEREAS, the City Council desires to authorize the Tax Assessor to require an initial down payment before or at the time an installment payment agreement is executed as a good faith effort to pay the delinquent taxes and to prosecute tax suits filed prior to an installment agreement to judgment to preserve the City's tax lien but defer enforcement of judgment of such suit in cases where an installment agreement is current.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

SECTION 1: That Title 3 (Revenue and Finance), Chapter 3.04 (Property Taxes), Section 3.04.050 (Delinquent Taxes- Installment Payments) of the City Code shall be amended as follows:

3.04.050- Delinquent taxes-Installment payments.

A. Installment payment schedules shall be set up only in cases of the economic hardship of the taxpayer or under such other circumstances in which such payment shall be in the best interests of the city; provided further, that the facts supporting a determination of hardship or of special benefit to the city shall be documented in writing in the account files kept by the city tax assessor/collector, city attorney, or such other officer as may be authorized by ordinance to collect

taxes. The tax assessor may require an initial down payment before or at the time of the execution of such agreement.

I. Once the City files a suit prior to the execution of an installment agreement, the City may prosecute any pending delinquent property tax suit involving properties subject to an installment payment agreement to judgment. If a judgment is granted in any such suit, the City may defer enforcement of judgment unless the installment agreement is breached. Failure of the taxpayer to make timely payments shall be a breach of the agreement.

Section 2: Except as herein enumerated, Title 3 (Revenue and Finance), Chapter 3.04 (Property Taxes), Section 3.04.050 (Delinquent Taxes – Installment Payments) of the City Code shall remain in full force and effect.

ADOPTED THIS _____ day of _____ 2013.

CITY OF EL PASO

_____
John F. Cook, Mayor

ATTEST:

_____
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Sol M. Cortez
Sol M. Cortez
Assistant City Attorney

APPROVED AS TO CONTENT:

Carmen Arrieta-Candelaria
Carmen Arrieta- Candelaria
Chief Financial Officer

ORDINANCE NO. _____

12-1002-023 / PL#155907/SMC
Amend City Code Sec. 3.04.050