

ORDINANCE NO. 2005 29

An ordinance to authorize early turnover and additional penalty on delinquent personal property taxes for tax years 2005 and subsequent years, as provided by Texas Tax Code § 33.11, in the amount of 15% of the delinquent tax, penalty and interest, if the tax becomes delinquent on February 1 of a year and remains delinquent on the 60th day thereafter; repealing conflicting ordinances and resolutions; providing for severability and codification; ~~declaring an emergency~~; and declaring an effective date.

Tex. Tax Code § 33.11, as amended in the regular 2005 legislative session, provides:

Sec. 33.11. Early Additional Penalty for Collection Costs for Taxes Imposed on Personal Property.

(a) In order to defray costs of collection, the governing body of a taxing unit or appraisal district in the manner required by law for official action may provide that taxes imposed on tangible personal property that become delinquent on or after February 1 of a year incur an additional penalty on a date that occurs before July 1 of the year in which the taxes become delinquent if:

- (1) the taxing unit or appraisal district or another unit that collects taxes for the unit has contracted with an attorney under Section 6.30; and
- (2) the taxes on the personal property become subject to the attorney's contract before July 1 of the year in which the taxes become delinquent.

(b) A penalty imposed under Subsection (a) is incurred by the delinquent taxes on the later of:

- (1) the date those taxes become subject to the attorney's contract; or
- (2) 60 days after the date the taxes become delinquent.

(c) The amount of the penalty may not exceed the amount of the compensation specified in the contract with the attorney to be paid in connection with the collection of the delinquent taxes.

(d) A tax lien attaches to the property on which the tax is imposed to secure payment of the penalty.

(e) If a penalty is provided under this section, a taxing unit or appraisal district may not:

- (1) recover attorney's fees in a suit to collect delinquent taxes subject to the penalty; or
- (2) impose an additional penalty under Section 33.07 on a delinquent personal property tax.

(f) If the governing body of a taxing unit or appraisal district provides for a penalty under this section, the collector for the taxing unit or appraisal district shall send a notice of the penalty to the property owner. The notice shall state the date on which the penalty is incurred, and the tax collector shall deliver the notice at least 30 and not more than 60 days before that date. If the amount of personal property tax, penalty and interest owed to all taxing units for which the tax collector collects exceeds \$10,000 on a single account identified by a unique property identification number, the notice regarding that account must be delivered by certified mail, return receipt requested. All other notices under this section may be delivered by regular first-class mail.

(g) The authority granted to taxing units and appraisal districts under this section is to be construed as an alternative, with regards to delinquent personal property taxes, to the authority given by Section 33.07.

The City of Victoria is empowered to authorize the addition of a collection penalty in an amount that does not exceed the amount of the compensation specified in the contract with the private law firm.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VICTORIA, TEXAS:

1.

An additional penalty on delinquent personal property taxes for tax years 2005 and subsequent years is hereby authorized and imposed, as provided by Texas Tax Code § 33.11, in the amount of 15% of the delinquent tax, penalty, and interest, if the tax becomes delinquent on February 1 of a year and remains delinquent on the 60th day thereafter.

Amendment of 12-20-05 meeting—The change to existing law effected by this ordinance shall not apply to manufactured homes.

2.

All parts of ordinances or resolutions in conflict with this ordinance are repealed to the extent of such conflict.

3.

If any provision of this ordinance, or the application thereof to any person or circumstances, shall be held invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not affect the other provisions, or application thereof, of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

4.

It is the intention of the City Council that this ordinance shall become a part of the Code of the City of Victoria, Texas, and it may be renumbered and codified therein accordingly, in the manner approved by the City Attorney. The Code of the City of Victoria, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

5. (amendment of 12-6-05 meeting shown as strikeout)

~~Due to the need to ensure this ordinance is effective prior to the end of the calendar year, an emergency is hereby declared; the requirement of Article II, § 9 of the City Charter that no ordinance shall be passed finally on the date of its first reading is suspended; and~~ This ordinance shall become effective immediately upon passage and approval by the City Council of the City of Victoria, Texas.

PASSED EMERGENCY READING, this 6th day of December, 2005.

AYES: 7

NAYS: 0

ABSTENTIONS: 0

APPROVED AND ADOPTED, this the 6th day of December, 2005.



ATTEST:

Scarlet Swoboda
SCARLET SWOBODA, City Secretary

Distribution: Legal Department
Finance Department

Will Armstrong
WILL ARMSTRONG, Mayor of the
City of Victoria, Texas

David Atmar Smith
APPROVED AS TO LEGAL FORM:
DAVID ATMAR SMITH, City Attorney
Copies Sent: **DECEMBER 21, 2005**