EXHIBIT NO. 1

14
6-14-05

City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 7, 2005

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER

SUBJECT: PERSONAL PROPERTY TAX COLLECTION AUTHORIZATION TO ALLOW CITY TO SEIZE LICENSE PLATES, TOW AND/OR IMMOBILIZE MOTOR VEHICLES FOR WHICH THE OWNERS HAVE FAILED TO PAY PERSONAL PROPERTY TAXES

ISSUE: Consideration of an ordinance, which authorizes certain City employees to selectively seize license plates and immobilize and/or tow motor vehicles for which the owners have failed to pay personal taxes and related fees and penalties.

RECOMMENDATION: That City Council pass the ordinance on first reading and schedule it for public hearing, second reading and final passage on June 21, 2005.

DISCUSSION: In the current State budget, the General Assembly included a provision that the annual local government reimbursement by the State starting in FY 2007 and beyond will be based on the amount of 2004 personal property tax revenue that each locality collects by December 31, 2005. As a result, it is in the City's best interest to maximize personal property tax collections of 2004 personal property taxes. The proposed ordinance, implementing a vehicle Distraint/Seizure Program, would be another tool the City can use to maximize collection of personal property taxes, as well as maximize the State reimbursement.

State law authorizes the City to seize license plates and/or tow or otherwise immobilize motor vehicles and sell the seized motor vehicles at auction for nonpayment of personal property taxes. The mechanism to distrain motor vehicles for nonpayment of taxes is already in place in the City. The Police Department's Parking and Tag Enforcement staff already ticket, boot, tow, impound and, if necessary, auction vehicles for parking violations. Therefore, in order to enhance delinquent personal property tax collection efforts, it is proposed that a personal property tax Distraint/Seizure program authorization be added to the Police Department's existing enforcement and collection programs.

Generally, the proposed program would involve City staff identifying vehicles where taxes, interest, penalties and other related fees are owed to the City in an amount greater than $100. These vehicles' owners have repeatedly ignored City tax bills, follow-up letters and warnings. Police Department Tag Enforcement staff would apply a Distraint/Seizure Warning Sticker and a Distraint/Seizure Warrant to the vehicle windshield notifying the owner that the vehicle has been

distrained for nonpayment of personal property taxes. Police staff would immobilize the vehicle by either removing the license plates and/or booting the vehicle or towing, and in some instances impounding the vehicle. If after reasonable notice the owner fails to pay the amount due and owing to the City, the vehicle would be auctioned to pay the delinquent taxes, associated fees and costs owed to the City. Auctioning is a last resort step likely to be used more as a possible consequence of non-payment, rather than as an actual frequent action taken by the City.

Arlington County has had a similar Distraint/Seizure program to that proposed by the ordinance for some time. Fairfax County's program involves placing a boot on the motor vehicle and a notice of distraint on the vehicle's windshield. Prince William County is exploring the feasibility of implementing a Distraint/Seizure program.

FISCAL IMPACT: The Distraint/Seizure program will provide the City with another tool to collect delinquent personal property taxes. This is particularly important at this time because, as previously stated, future annual State reimbursement revenues will be based on the total amount of 2004 taxes collected by December 31, 2005. As a result, each $1 collected will mean $10 more to the City in added State revenue over the next ten years. The City has budgeted $22.4 million in State personal property tax reimbursement in FY 2006.

The amount of taxes to be collected by the proposed Distraint/Seizure program is hard to calculate. However, it is likely that the City will collect between $25,000 to $75,000 in 2004 delinquent taxes from the proposed Distraint/Seizure program. Additional taxes will also be collected as a result of likely publicity and the ability of Finance Department staff to include this new collection authority in delinquent tax collection letters.

In a related matter, during the last month, as part of an increased effort to collect tax year 2004 delinquent taxes, the City mailed approximately 7,000 "Notice of Intent to Issue Warrant" collection letters to citizens. This collection tool resulted in an increase to date of $200,000 which will be added to the City's annual State personal property tax reimbursement base.

ATTACHMENT: Proposed Ordinance

STAFF:
Mark Jinks, Assistant City Manager for Fiscal and Financial Affairs
D. A. Neckel, Director of Finance

EXHIBIT NO. 2

Introduction and first reading:	6/14/2005
Public hearing:	6/21/2005
Second reading and enactment:	6/21/2005

INFORMATION ON PROPOSED ORDINANCE

Title

AN ORDINANCE to add a new Section 3-2-230.1 (DISTRAINT OF MOTOR VEHICLE DELINQUENT ON PERSONAL PROPERTY TAXES) to Division 3 (TANGIBLE PERSONAL PROPERTY AND MACHINERY AND TOOLS), of Article M (LEVY AND COLLECTION OF PROPERTY TAXES), Chapter 2 (TAXATION), Title 3 (FINANCE, TAXATION AND PROCUREMENT) of The Code of the City of Alexandria, Virginia, 1981, as amended.

Summary

The proposed ordinance enhances the enforcement options for motor vehicles on which personal property taxes are delinquent by $100.00 or more, by providing for the seizure or distraint of such vehicles.

Sponsor

Staff

Daniel Neckel, Director of Finance
Debbie Kidd, Division Chief, Finance
Karen S. Snow, Assistant City Attorney

Authority

§ 58.1-3941, of the Code of Virginia (1950), as amended

Estimated Costs of Implementation

None

Attachments in Addition to Proposed Ordinance

None

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EXHIBIT NO. 3

ORDINANCE NO. _____

AN ORDINANCE to add a new Section 3-2-230.1 (DISTRAINT OF MOTOR VEHICLE DELINQUENT ON PERSONAL PROPERTY TAXES) to Division 3 (TANGIBLE PERSONAL PROPERTY AND MACHINERY AND TOOLS), of Article M (LEVY AND COLLECTION OF PROPERTY TAXES), Chapter 2 (TAXATION), Title 3 (FINANCE, TAXATION AND PROCUREMENT) of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 2 of Title 3, Division 3, of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same is amended by adding thereto a new Section 3-2-230.1 to read as follows:

[The following is all new language]

Sec. 3-2-230.1 Distraint of motor vehicle delinquent on personal property taxes.

(a) Any motor vehicle found in the city which is delinquent on personal property taxes associated with that vehicle, as per Section 3-2-230 of this code, in the amount of $100.00 or more, shall be subject to distraint. Distraint may be effected by seizure and removal of the vehicle's license plates, by immobilization of the vehicle to prevent its operation, or by seizure and removal of the vehicle itself. The Chief of Police, the Director of Finance, their designees, and any other city employee authorized in writing by the city manager, may enforce this section. No such vehicle found on private property shall be distrained unless written authorization to enforce this section on such property has been given by the owner or, when the property is held in common by an association of owners established pursuant to sections 55-79.1 through 55-79.38 or sections 55-79.39 through 55-79.103 of the Code of Virginia, by such association, and the city has agreed in writing that it will hold the property owner harmless from all loss, damage or expense, including costs and attorney's fees, that the owner may incur as a result of actions taken by the city pursuant to this section.

(b) Upon distraint, the city shall inform the owner of the vehicle as soon as practicable of the distraint and of the amount of taxes, penalty and interest and other charges due on the vehicle. Such notice shall also include notice of the procedures for an administrative hearing for return of the vehicle or license plates, consistent with subsection (e) below.

(c) Once a motor vehicle has been distrained by seizure of the license plates or immobilized in accordance with subsection (a) above, the vehicle's registered owner, or person authorized by the owner, shall be allowed one business day from the time of distraint to contact the Director of Finance and pay or make arrangements to otherwise resolve the outstanding personal property taxes. After the one business day, the City may remove such vehicle to a storage area for safekeeping under the direction of a police officer.

(d) The owner or lessee, or authorized agent thereof, of a distrained motor vehicle may secure the release of the vehicle by payment of the delinquent personal property taxes, interest and penalties, and reasonable costs incidental to the distraint, immobilization and storage of the motor vehicle and to the efforts to locate the owner of the vehicle. Should such owner fail or refuse to pay such amounts, or should the identity or whereabouts of such owner be unknown and unascertainable, the vehicle may be sold as provided by section 5-8-27 of this code.

(e)(1) Any owner or lessee, or authorized agent thereof, who contends that his or her vehicle was erroneously distrained, may file a request for a hearing before the Director of Finance or his designee, for release of such vehicle. Such hearing shall take place within one business day from the date that the Director of Finance or his designee receives notification of the request for a hearing.

(2) The requestor shall provide all of the grounds on which he or she contends that the motor vehicle was erroneously distrained. If the Director of Finance or his designee is satisfied that the motor vehicle was erroneously distrained, the city shall return the seized property to the owner. If the Director or his designee is not so satisfied, the requestor shall be informed in writing, and the vehicle shall be subject to release or sale pursuant to subsection (d) above.

Section 2. That this ordinance shall become effective upon the date and time of its final passage.

WILLIAM D. EUILLE
Mayor

Introduction: 6/14/05
First Reading:
Publication:
Public Hearing:
Second Reading:
Final Passage:

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