

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

DEPARTMENT: City Manager's Office

AGENDA DATE: Introduction: August 7, 2018
Public Hearing: August 14, 2018

CONTACT PERSON/PHONE: Robert Cortinas, Chief Financial Officer, (915) 212-1067

DISTRICT(S) AFFECTED: All

SUBJECT:

An Ordinance Amending Title 3 (Revenue and Finance), Chapter 3.08 (Sales Tax), Section 3.08.010 (Exemptions - Gas and Electricity) of the City of El Paso Code to repeal the sales tax exemption to the use of residential gas and electricity and to reimpose the local sales tax on the residential use of gas and electricity.

BACKGROUND / DISCUSSION:

The 65th Legislature, 2nd Called Session, enacted Legislation exempting residential use of gas and electricity from the 4% State Sales Tax and providing a local option on the 1% City Sales Tax. On August 29, 1978, the City of El Paso passed Ordinance 6308 to repeal the sales tax on residential use of gas and electricity. Currently, of the 915 eligible Texas cities, 774 impose the tax. El Paso is among the cities that currently does not impose the 1% City Sales Tax on residential use of gas and electricity.

PRIOR COUNCIL ACTION:

On August 29, 1978, City Council passed Ordinance 6308 to repeal the one percent city sales tax on the residential use of gas and electricity.

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

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

DEPARTMENT HEAD:

Robert Cortinas

DATE:

8/14/18

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 3 (REVENUE AND FINANCE) CHAPTER 3.08 (SALES TAX), SECTION 3.08.010 (EXEMPTIONS-GAS AND ELECTRICITY) OF THE CITY OF EL PASO CODE TO REPEAL THE SALES TAX EXEMPTION TO THE USE OF RESIDENTIAL GAS AND ELECTRICITY AND TO REIMPOSE THE LOCAL SALES TAX ON THE RESIDENTIAL USE OF GAS AND ELECTRICITY (RESIDENTIAL USE OF GAS AND ELECTRICITY TAX).

WHEREAS, the City Council of the City of El Paso adopted a sales and use tax for the consumption of gas and electricity for residential use authorized by the "Local Sales and Use Tax Act" before October 1, 1979; and

WHEREAS, the City Council repealed such ordinance and exempted the residential use of gas and electricity on August 29, 1978; and

WHEREAS, pursuant to Section 321.105(c) of the Texas Tax Code, the City of El Paso is authorized to reimpose the taxes on gas and electricity for residential use by ordinance by a vote of the majority of the City Council and entered in the minutes.

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

Section 1. That Title 3 (Revenue and Finance), Chapter 3.08 (Sales Tax), Section 3.08.010 (Exemptions- Gas and Electricity) of the City of El Paso Code is amended to read as follows: Chapter 3.08.010, Residential Use of Gas and Electricity Tax, to read as follows:

3.08.010 Residential Use of Gas and Electricity Tax

- A. A tax is hereby imposed on all residential gas and electric services sold within the City. For the purposes of this section, the sale of residential gas and electric services is consummated at the address to which the service is billed.
- B. For purposes of this section, the term "residential use" has the same meaning given in 34 Tex. Admin. Code § 3.295(a)(8).
- C. The rate of the tax imposed by this section shall be the same as the rate imposed by the city for all other local sales and use taxes as authorized by the legislature of the State of Texas, that being one percent for local tax.
- D. The tax provided for hereunder shall not serve as an offset to, be in lieu of, or in any way reduce any amount payable to the city pursuant to any franchise, street use ordinance, charter provision, statute, or, without limitation by the foregoing enumeration, otherwise payable by any provider of residential gas or electric service; it being the express intent hereof that all such obligations, impositions, and agreements

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of every kind and nature shall remain in full force and effect without reduction or limitation hereby.

Section 2. That the City Secretary shall send to the Texas Comptroller by United States certified or registered mail a copy of this ordinance imposing the taxes on residential use of gas and electricity.

Section 3. This Ordinance shall take effect immediately from and after its passage by the City Council of the City of El Paso. The tax imposed by this section shall be effective on January 1, 2019, except that the tax shall not apply to sales of gas and electricity for residential use made during a retailer's regular monthly billing period for a consumer if the regular monthly billing period for the consumer begins before January 1, 2019, but shall apply to each regular monthly billing period beginning on or after January 1, 2019.

ADOPTED this _____ day of _____, 2018.

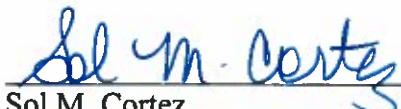
CITY OF EL PASO

Dee Margo
Mayor

ATTEST:

Laura D. Prine,
City Clerk

APPROVED AS TO FORM:



Sol M. Cortez
Senior Assistant City Attorney

APPROVED AS TO CONTENT:



Robert Cortinas
Chief Financial Officer

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