

GOLDEN BEACH, FLORIDA

ORDINANCE NO. 442.99

AN ORDINANCE OF THE TOWN COUNCIL OF GOLDEN BEACH, FLORIDA; AMENDING ORDINANCE 394.93, AS AMENDED BY ORDINANCE 415.96 (CODIFIED AT CHAPTER 34, ARTICLE II OF THE TOWN CODE OF ORDINANCES); REPEALING THE PUBLIC SERVICE TAX; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, effective September 21, 1993, the Town Council enacted Ordinance 394.93 implementing a public service tax on the purchase of electricity, bottled and metered gas delivered to the Town; and

WHEREAS, the Town Council desires to eliminate the public service tax which has been at the rate of 8% since its inception; and

WHEREAS, it is the intention of the Town Council that the utility companies selling electricity and gas in the Town remain obligated to transmit the tax revenue, provide reports and retain records as provided in the Town Code;

NOW THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AS FOLLOWS:

Section 1. That the above stated preambles are hereby approved and adopted.

Section 2. That Article II "Public Service Tax" of Chapter 34 Taxation is hereby amended, repealing the Public Service Tax, as follows:

"Chapter 34 Taxation

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ARTICLE II. PUBLIC SERVICE TAX

Sec. 34-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bottled Gas means all types and kinds of natural, liquefied, petroleum and manufactured gas for lighting, heating, cooking, power or any other purpose, delivered to any Purchaser within the Town.

Electricity means all electric current or energy for lighting, heating, cooking, power or any other purpose, delivered to any Purchaser within the Town.

Fuel Adjustment Charge means all increases in the cost of Metered or Bottled Gas to the Purchaser resulting from an increase in the cost of fuel to the Seller subsequent to October 1, 1973.

House of Public Worship means churches, temples and established physical places for worship in this State at which nonprofit religious services and activities are regularly conducted and carried on.

Metered Gas means all types and kinds of natural and manufactured gas for lighting, heating, cooking, power or any other purpose, delivered to any Purchaser within the Town.

Purchase means every act or transaction whereby possession of, utilization of, control over or title to Electricity, Metered or Bottled Gas, and the duty and obligation to pay therefor, become vested in a Purchaser within the Town, but such term shall not pertain to nor include any such act or transaction when undertaken or performed by an agency or instrumentality of the United States Government, the State, the County or a municipality.

Purchaser means every Person legally liable to pay for Electricity, Metered or Bottled Gas rendered by a Seller, unless such Person is an agency or instrumentality of the United States Government, the State, the County, a municipality or a House of Public Worship.

Seller means every Person delivering Electricity, Metered or Bottled Gas within the Town to any Purchaser.

Taxable Services means Electricity and Metered or Bottled Gas.

Sec. 34-27. Imposition-amount. Public Utility Tax Repealed - Transition.

Effective February 10, 1999, there is no longer ~~There is hereby~~ levied and imposed by the Town upon any every Purchase in the Town of Taxable Services included in or reflected by any bill rendered by a Seller to a Purchaser, a public utility tax (the "Utility Tax") which shall be determined as follows:

- (1) The Utility Tax shall no longer be levied only upon Purchases of Taxable Services within the Town. The amount of the Utility Tax, ~~shall be which was~~ eight percent of the payments received by the Seller from the Purchaser for Taxable Services, exclusive of governmental charges and taxes shown on any bill due and payable on account of such Purchases, and exclusive of any portion of the bill that represents a Fuel Adjustment Charge, is hereby repealed effective February 10, 1999. Although the Utility Tax is repealed, the sellers of Taxable Services shall comply with the collection, payment and reporting requirements as provided in this Article for Taxable Service or Utility Tax revenue that was collected or should have been collected up to February 10, 1999. The sellers are authorized to collect the tax through the end of the billing period in which February 10, 1999 falls, provided the billing period is thirty (30) days or less, and the tax revenue is remitted to the Town.
- (2) The Seller is required to render to each Purchaser bills covering all Taxable Services purchased, and the amount of the Utility Tax shall be entered and shown by the Seller as a separate item on each bill and shall become due and payable to the Town whenever the bill becomes due and payable under the rules and regulations of the Seller. Each bill shall include Purchases applicable to one location, or to one family or business where more than one family or business uses separate metered services at one location in the Town.
- (3) The Purchaser is required to pay the Utility Tax to the Seller, as agent for the Town, at the time of the payment of each bill. If the Purchaser shall fail, neglect or refuse to pay such Utility Tax to the Seller when the bill becomes due and payable, the Seller is hereby empowered to discontinue to make any further sales or to render any further service to the Purchaser until the total amount, including the Utility Tax, shown upon the bill has been paid in full. The Seller is hereby authorized and required to collect the Utility Tax from the Purchaser at the time of the payment of each bill and to remit the Utility Tax to the Town Clerk in accordance with the provisions of this article. Whenever the Seller shall fail or neglect to collect the Utility Tax from the Purchaser within one year from the date of the bill on which the Utility Tax was or should have been imposed, the Seller shall be deemed to have assumed the Utility Tax itself and shall thereupon become liable for the payment of the amount thereof to the Town to the same extent as if the Utility Tax had been collected from the Purchaser, without further recourse to the Purchaser therefor.

- (4) Services competitive with Taxable Services shall be taxed on a comparable basis at the same rates.

Sec. 34-28. Exemptions.

The following are exempt from the Utility Tax imposed under this article:

- (1) Natural gas or fuel oil purchased by a public or private utility, either for resale or for use as fuel in the generation of Electricity, or the Purchase of fuel oil or kerosene for use as an aircraft engine fuel or propellant or for use in internal combustion engines.
- (2) Purchases by the United States Government, the County, State or a municipality, or by any House of Public Worship for use exclusively for House of Public Worship purposes.

Sec. 34-29. Filing of certified statement; remittance of tax.

Every Seller is hereby required to execute and file, not later than the 20th day of each month, at the Town Clerk's office, a certified statement, on a form prescribed by the Town, setting forth the amount of Utility Tax to which the Town became entitled under the provisions of this article on account of bills paid by Purchasers during the preceding fiscal month. Contemporaneously with the filing of such statements, each Seller shall pay the amount of such Utility Tax to the Town, to be deposited to the credit of the general fund of the Town, to be expended for Town purposes.

Sec. 34-30. Records to be maintained by Seller.

Every Seller is hereby required to establish and maintain appropriate accounts and records showing, in such detail as the Town Manager may prescribe, the amount of Utility Tax payable to the Town under the provisions of this article. Such accounts and records shall be open to inspection by the Town Manager or his duly authorized agent at all reasonable times. The Town Manager is hereby authorized and empowered to promulgate from time to time such rules and regulations with respect to the establishment and maintenance of such accounts and records as he may deem necessary to carry into effect the purpose and intent of the provisions of this article.

Sec. 34-31. Reports of deliveries for resale.

Every manufacturer, distributor, wholesaler or Seller who delivers Taxable Services to any Seller or other Person having a place of business in the Town or licensed to do business therein, to be sold or resold to Purchasers, shall report to the Town Manager's office biannually, as of June 30 and December 31, the names and addresses of such Sellers or other Persons and the quantities received by each of them during the preceding six months. Such reports shall be filed not later than one month after the close of each biannual period.

Secs. 34-32 - 34-50. Reserved."

Section 3. That the Public Service Tax, having been repealed by this Ordinance as provided in Section 34-31 above, Article II is hereby repealed one year after the effective date of this Ordinance and shall be deleted from the Code at that time.

Section 4. Conflict. That all ordinances or parts of ordinances, all Town Code sections or parts of Town Code sections, and all resolutions or parts of resolutions in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 5. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, clauses, sentences and phrases of this Ordinance but they shall remain in effect, notwithstanding the invalidity of any part.

Section 6. Inclusion In The Code. That it is the intention of the Town Council, and it is hereby ordained that the provisions of this Ordinance, shall become and be made a part of the Code of the Town of Golden Beach; that the sections of the Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" may be changed to "Section" or other appropriate word.

Section 7. Effective Date. That this Ordinance shall become effective immediately upon its adoption on second reading.

The Motion to adopt the foregoing Ordinance on first reading was offered by Mayor Cuenca, seconded by Councilperson Rodriguez and on roll call the following vote ensued:

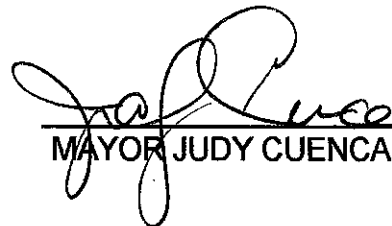
Mayor Cuenca	<u>aye</u>
Vice Mayor Chikovsky	<u>nay</u>
Councilmember Fistel	<u>aye</u>
Councilmember Lidsky	<u>aye</u>
Councilmember Rodriguez	<u>aye</u>

PASSED AND ADOPTED on first reading this 19th day of January, 1999.

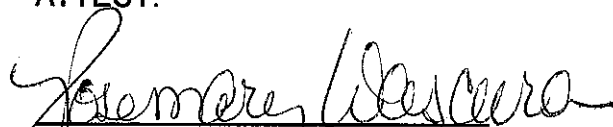
The Motion to adopt the foregoing Ordinance on second reading was offered by Councilwoman Lidsky, seconded by Councilman Rodriguez, and on roll call the following vote ensued:

Mayor Cuenca	<u>AYE</u>
Vice Mayor Chikovsky	<u>NAY</u>
Councilmember Fistel	<u>ABSENT</u>
Councilmember Lidsky	<u>AYE</u>
Councilmember Rodriguez	<u>AYE</u>

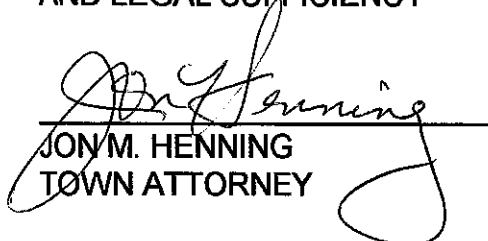
PASSED AND ADOPTED on second reading this 9th day of February, 1999. *9:00 PM*


MAYOR JUDY CUENCA

ATTEST:


ROSEMARY J. WASCURA
TOWN CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY


JON M. HENNING
TOWN ATTORNEY