

ORDINANCE NO. 394.93

AN ORDINANCE OF THE TOWN OF GOLDEN BEACH, FLORIDA, IMPOSING A PUBLIC SERVICE TAX; PROVIDING FOR DEFINITIONS; ESTABLISHING AN IMPOSITION AMOUNT; PROVIDING FOR EXEMPTIONS; ESTABLISHING A METHOD AND PROCEDURE FOR FILING OF CERTIFIED STATEMENTS AND REMITTANCE OF TAX; PROVIDING FOR RECORDS TO BE MAINTAINED BY SELLER; REQUIRING REPORTS OF DELIVERIES FOR RESALE; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE.

WHEREAS, Section 166.231, Florida Statutes, authorizes a municipality to levy and collect a public service tax on the purchase of specified utilities; and

WHEREAS, the Town Council wants to generate new sources of revenue for the Town necessary for the conduct of municipal government and for the sole purpose of placing existing utilities underground; and

WHEREAS, the Town Council wants to levy a utility tax on the purchase of electricity and metered or bottled gas within the Town on a percentage rate basis as prescribed by Section 166.231, Florida Statutes; and

WHEREAS, the Town Council wants to use the tax proceeds for municipal purposes and deposit the proceeds in a separate account to be used for the sole purpose of placing utility lines underground;

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

Section 1. That the Code of the Town of Golden Beach is hereby amended by adding a new chapter which shall read as follows:

ARTICLE _____.

Sec. 1. 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

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. 2. Imposition: amount. Commencing November 1, 1993, there is hereby levied and imposed by the Town upon 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:

a. The Utility Tax shall be levied only upon Purchases of Taxable Services within the Town. The amount of the Utility Tax shall be 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.

b. 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.

c. 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.

d. Services competitive with Taxable Services shall be taxed on a comparable basis at the same rates.

Sec. 3. 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 State or a municipality, or by any House of

Sec. 5. 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. 6. 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.

Section 2. Repeal of Conflicting Provisions. That any conflicting provisions, ordinances or resolutions of the Code of the Town of Golden Beach are hereby repealed in their entirety.

Section 3. Severability. 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, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion in the Code. It is the intention of the Town Council, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Code of the Town of Golden Beach; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. Effective Date. This Ordinance shall be effective upon adoption on second reading.

PASSED AND ADOPTED on first reading this 17th day of August, 1993.


PASSED AND ADOPTED on second reading this 21st day of September, 1993.


BARRY NELSON, MAYOR

ATTEST:


TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:


RICHARD JAY WEISS, TOWN ATTORNEY

The Motion to adopt the foregoing Ordinance was offered by Councilman Duffner, seconded by Councilman Rosenthal and on roll call the following vote ensued:

Mayor Nelson	Yes
Vice Mayor Addicott	Yes
Councilman Duffner	Yes
Councilman Mesa	Yes
Councilman Rosenthal	Yes