

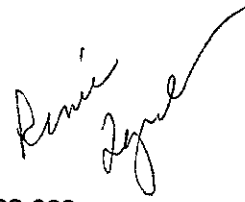
9:30 A. M. 7. Second Reading and Public Hearing

- b. **ORDINANCE 08-009 AN ORDINANCE LEVYING A PUBLIC SERVICE TAX ON THE PURCHASE IN THE CITY OF ELECTRICITY AND WATER SERVICE, EQUAL TO TEN PERCENT (10%) OF THE PAYMENTS RECEIVED BY THE SELLER OF SUCH TAXABLE ITEMS; PROVIDING THAT SUCH PUBLIC SERVICE TAX IS LEVIED PURSUANT TO THE AUTHORITY OF SECTION 166.231, FLORIDA STATUTES; PROVIDING FOR EXEMPTIONS; PROVIDING FOR COLLECTION BY SELLER FROM PURCHASER AND TAX TO BE REMITTED BY SELLER TO CITY; PROVIDING FOR RIGHT OF SELLER TO DISCONTINUE SERVICE FOR FAILURE TO PAY TAX; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE FOR THE ORDINANCE, AND AN EFFECTIVE DATE FOR THE LEVY OF THE TAX OF OCTOBER 1, 2008**

April 15, 2008

MEMORANDUM

TO: Judie Zimomra, City Manager
FROM: Renee Lynch, Finance Director
RE: Public Service Tax Ordinance #08-009



The Public Service tax is authorized by Chapter 166.231 through 166.235, Florida Statutes, to be levied at a rate of up to 10% of the purchase price on the purchase of electricity and water service. The Statute also authorizes the tax to be levied on the purchase of metered natural gas, liquefied petroleum gas, and/or manufactured gas, whether metered or bottled, however these services are not included for taxation in this Ordinance.

Florida Statute also provides for exemptions to this tax, which are included in the proposed Ordinance. These are:

- a) 1st 500 Kilowatt hours of electricity consumption
- b) Purchases by US government, the State of Florida, All Counties, school districts, municipalities and public bodies exempted by law or court order.
- c) Purchases by any other public body as defined in section 1.01, F.S. (such as the Sanibel Fire & Rescue District and the Library District).
- d) Purchases by a non-profit corporation organized under chapter 617, F.S. which provides water utility services to no more than 13,500 equivalent residential units, ownership of which will revert to a political subdivision upon retirement of all outstanding indebtedness (such as Island Water Association).

Ordinance #08-009 is established at the rate of 10%. The schedule below identifies the service and rate charged by other southwest Florida municipalities:

MUNICIPALITY/COUNTY	RATES					
	ELECTRIC	FUEL OIL / KEROSENE	GAS: Liquefied Petroleum	GAS: Manufactured	GAS: Natural	WATER
LEE COUNTY						
Fort Myers	10%	0%	10%	10%	10%	10%
CHARLOTTE COUNTY						
Punta Gorda	10% 1st 500, then 3%	\$.04/gal	10% 1st 500, then 3%	10% 1st 500, then 3%	10% 1st 500, then 3%	10% but not > \$100/
COLLIER COUNTY						
Everglades City	8%	0%	8%	0%	8%	8%
Naples	7%	0%	7%	0%	0%	0%
SARASOTA COUNTY						
North Port	2%	0%	0%	0%	0%	0%
Sarasota	10%	\$.04/gal	10%	10%	10%	10%
Venice	10%	10%	10%	10%	10%	n/a

Users of electricity and water service have control over consumption of these public utility services and can realize a tax savings by reducing consumption of services and thereby encouraging conservation.

rml

CITY OF SANIBEL

ORDINANCE NO. 08-009

AN ORDINANCE LEVYING A PUBLIC SERVICE TAX ON THE PURCHASE IN THE CITY OF ELECTRICITY AND WATER SERVICE, EQUAL TO TEN PERCENT (10%) OF THE PAYMENTS RECEIVED BY THE SELLER OF SUCH TAXABLE ITEMS; PROVIDING THAT SUCH PUBLIC SERVICE TAX IS LEVIED PURSUANT TO THE AUTHORITY OF SECTION 166.231, FLORIDA STATUTES; PROVIDING FOR EXEMPTIONS; PROVIDING FOR COLLECTION BY SELLER FROM PURCHASER AND TAX TO BE REMITTED BY SELLER TO CITY; PROVIDING FOR RIGHT OF SELLER TO DISCONTINUE SERVICE FOR FAILURE TO PAY TAX; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE FOR THE ORDINANCE, AND AN EFFECTIVE DATE FOR THE LEVY OF THE TAX OF OCTOBER 1, 2008.

WHEREAS, Sections 166.231-166.235, Florida Statutes, authorize the City to levy a Public Service Tax on the purchase of electricity and water service, and provide related procedures relating to such tax; and

WHEREAS, the City Council finds it necessary and in the best interests of the citizens of the City of Sanibel to levy a Public Service Tax upon purchases of electricity and water services within the City at the rate of ten percent (10%); and

WHEREAS, the Public Service Tax can be reduced by the purchaser through conservation of electricity and water; and

WHEREAS, the City is also authorized to exempt the first 500 kilowatt hours of electricity purchased per month for residential use and finds it appropriate and in the interests of conservation to provide such exemption;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Sanibel, Florida, that:

SECTION 1. Levy of Public Service Tax.

There is hereby levied and imposed by the City of Sanibel on each and every purchase within the City of electricity and water service, a Public Service Tax equal to ten percent (10%) of the payments received by the seller thereof, such tax to be paid to the seller by the purchaser of such public services for the use of the City, at the time of paying the charge for each such public service, but not less than monthly.

SECTION 2. Exemptions.

The following are exempt from the Public Service Tax levied by this Ordinance:

- (a) The purchase of electricity in any amount up to, and including, the first 500 kilowatt hours of electricity purchased per month for residential use. Such exemption shall apply to each separate residential unit, regardless of whether such unit is on a separate meter or a central meter, and shall be passed on to each individual unit.
- (b) Purchases by the United States, the state, and all counties, school districts, and municipalities of the state, tax funded special districts, and by public bodies exempted by law or court order.
- (c) Purchases by any recognized church in this state for use exclusively for church purposes.
- (d) Any non profit corporation or cooperative association organized under Chapter 617, Florida Statutes, which provides water utility services to no more than 13,500 equivalent residential units, ownership of which will revert to a political subdivision upon retirement of all outstanding indebtedness.
- (e) Purchases of bottled water.

SECTION 3. Collection by Seller from Purchaser; Tax to be Remitted by Seller to City.

It shall be the duty and requirement of every seller of electricity and water service to collect from the purchaser, for the use of the City, the tax levied by this Ordinance at the time of collecting the selling price charged for each transaction and to report and pay over, on or before the 15th day of each calendar month, to the City Finance Department, all such taxes levied and collected during the preceding calendar month. It shall be unlawful for any seller to collect the price of any sale of any such utility or public service without, at the same time, collecting the tax levied in respect to such sale, unless the seller shall elect to assume and pay the tax without collecting the tax from the purchaser. Any seller failing to collect the tax at the time of collecting the price of any sale, where the seller has not elected to assume and pay the tax, shall be directly liable to the City for the amount of the tax in like manner as if the tax had been actually paid to the seller, and the City Manager or City Council shall cause to be brought all suits and actions and to take all proceedings in the name of the City as may be necessary for the recovery of the tax. However, the seller shall not be liable for the payment of the tax upon uncollected bills.

SECTION 4. Right of Seller to Discontinue Service for Failure to Pay Tax.

If the purchaser of electricity or water services shall fail, neglect or refuse to pay the Public Service Tax levied by this Ordinance to the seller when such bill becomes due and payable, the seller is hereby empowered to discontinue forthwith to make any further sales or to render any further service to the purchaser until the total amount, including such Public Service Tax shown upon such bill, shall have been paid in full.

SECTION 5. Codification.

This ordinance shall be deemed an amendment to the Code of Ordinances of the City of Sanibel and the Sanibel Code of Ordinances is hereby amended.

SECTION 6. Conflict.

All ordinances and parts of ordinances in conflict herewith shall be and the same are hereby repealed. If any part of this ordinance conflicts with any other part, it shall be severed and the remainder shall have full force and effect and be liberally construed.

SECTION 7. Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance, or application hereof, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion of application hereof.

SECTION 8. Effective date.

This ordinance shall take effect immediately upon adoption provided, however, that the effective date of the levy of the Public Service Tax shall be October 1, 2008 and such levy shall continue unless and until repealed by City Council.

DULY PASSED AND ENACTED by the Council of the City of Sanibel, Florida, this 15th day of April, 2008.

AUTHENTICATION:

Mick Denham, Mayor

Pamela Smith, City Clerk

APPROVED AS TO FORM: *Kenneth B. Cuyler* 4/10/08
Kenneth B. Cuyler, City Attorney Date

Publication and Hearing Dates:

Date of First Public Hearing: _____
Ordinance Publication Date: _____
Date of Second Public Hearing: _____

Vote of Council Members:

Denham _____
Ruane _____
Jennings _____
Johnston _____
Pappas _____

Date filed with the City Clerk: _____