

ORDINANCE 277

AN ORDINANCE AMENDING ORDINANCE #134 IN ITS ENTIRETY WHICH THIS PROPOSED ORDINANCE EMBRACES THE SUBJECT MATTER OF PUBLIC SERVICE TAX OR UTILITY TAX AND MATTERS CONNECTED THEREWITH, DEFINITION OF PUBLIC SERVICE TAX, AMOUNTS TO BE CHARGED, COLLECTION, DISCONTINUANCE SERVICE NON-PAYMENT, RECORDS TO BE KEPT, COMPUTATION FOR COLLECTION, VIOLATIONS AND PENALTIES.

Section 1. Definition of pursuit taxed, by whom payable.

There is hereby levied by the city on each and every purchase in the city of electricity, gas (natural or manufactured, including liquefied petroleum metered or bottled gas), and water service a tax equal to the percentage of the charge made by the seller of such electricity, gas, and water service to the consumer thereof as set out in Section 2 hereof, which tax shall, in every case, be paid by the purchaser, for the use of the city, to the seller of such electricity, gas, and water service at the time of paying the charge thereof, but not less often than monthly.

Section 2. Amounts

(a) The tax hereby levied on the purchases of electricity, gas and water services shall by 10 percent of the charge made by the seller thereof using for billing purposes any percent or future domestic, residential or commercial rate schedule; that is, 10 percent of the charge made by the seller of such electricity, gas, and water service when used for domestic, residential, or commercial purpose and so rated by the seller, not to exceed \$35.00 per user.

(b) The tax hereby levied on the purchase of electricity, gas, and water services shall by 10 percent on the charge made by industrial lighting or industrial power rate schedule, that is, 10 percent of the charge made by the seller of such electricity and gas when used for industrial purposes and so rated by the seller, not to exceed \$35.00 per user.

(c) The Holmes County Jail is exempt from all taxes described herein.

Section 3. Collection, periods, discontinuing service for nonpayment.

(a) It shall be the duty of every seller of electricity, gas (natural or manufactured, including liquefied petroleum gas),

and water service to collect from the purchaser, for the use of the City the tax hereby levied, at the time of collecting the selling price charged for each transaction, and to report and pay over, on or before the last day of each calendar month, unto the city clerk, all such taxes levied and collected during the preceding month.

(b) It shall be unlawful for any seller to collect the price of any sale of electricity, gas (natural gas or manufactured, including liquefied petroleum gas), and water service, without at the same time collecting the tax hereby levied in respect to such sale or sales, unless such seller shall elect to assume and pay such tax without collecting the same for the purchaser. Any seller failing to collect such tax at the time of collecting the price of any sale, where the seller has not elected to assume and pay such tax, shall be liable to the city for the amount of such tax in like manner, as if the same had been actually paid to the seller, and the city commission 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 such tax; provided, however, that the seller shall not be liable for the payment of such tax upon uncollected bills.

(c) If any purchaser shall fail, neglect, or refuse to pay the seller, the seller's charge, and the tax hereby imposed and as hereby required on account of the sale for which such charge is made, or either the seller shall have and is hereby vested with right, power, and authority immediately to discontinue further service to such purchase until the tax and the seller's bill shall have been paid in full.

#### Section 4. Records; information; filing; open for inspection.

(a) That each and every seller of electricity, gas (natural or manufactured, including liquefied petroleum gas), and water service shall keep complete records showing all sales in the city of such commodities or service, which records shall show the price charged upon each sale, the date hereof, and the date of payment thereof, and such records shall be kept open for inspection by the authorized agents of the city during business hours on all business days, and such duly authorized agents of the city shall have the right, power, and authority to make such transcripts thereof during such times as they may desire.

(b) In addition to making such records available, every seller is hereby required to execute and file, not later than the last day of each month, at the office of the city clerk, a sworn statement on a form prescribed by the city clerk setting forth the amount of such tax to which the city became entitled under the provisions of this Ordinance on account of bills paid by purchasers during the preceding fiscal month, and contemporaneously with the filing of such statement, shall pay the amount of tax to which the city is entitled to the city

clerk, to be deposited to the credit of such funds of the city to be utilized for such purposes as the city commission may prescribe by the Ordinance or Resolution.

Section 5. Computing for monthly bill collection periods.

In all cases where the seller of electricity, gas (natural or manufactured, including liquified petroleum gas), and water service collects the price thereof at monthly periods, the tax hereby levied may be computed on the aggregate amount of purchases during such period, provided that the amount of tax to be collected shall be the nearest whole cent to the amount computed.

Section 6. When purchases deemed consummated.

For the purpose of this article a purchase shall be determined to be made in the city in every instance where electricity, gas (natural or manufactured, including liquified petroleum gas), and water service, is delivered to a purchaser residing within the limits of the city, regardless of whether the residence or business or headquarters of the seller is located within the limits of the city or elsewhere. The tax hereby levied on all purchases of electricity, gas, or water shall apply to all purchases of electricity, gas, or water, whether delivered through the medium of a meter or other measuring device or otherwise to premises located in the city.

Section 7. Violation; penalty.

That any purchaser willfully failing or refusing to pay the hereby imposed tax where the seller has not elected to assume and pay such tax, and any seller violating the provisions hereof, or any officer, agent, or employee of any seller violating the provisions hereof shall, upon conviction, be subject to punishment for a second degree misdemeanor; a fine of five hundred dollars (\$500.00) and/or thirty (30) days in jail.

Section 8. Appropriation of proceeds of tax to general fund.

The proceeds of the tax hereby levied are hereby appropriated to the general fund of the city.

Section 9.

This Ordinance specifically amends Ordinance #134 in its entirety.

Section 10.

Ordinance shall be in legal effect upon passage but collected of any public service tax shall be on \_\_\_\_\_, 1992, which would be for the previous month receipts.

DONE AND PASSED this 27<sup>th</sup> day of July, 1992.

CITY COUNCIL  
CITY OF BONIFAY

BY: James E. Sims, Jr.  
Mayor James E. Sims, Jr.

ATTEST

Shirley Mitchell  
City Clerk Shirley Mitchell

(Seal)