

1
2
3 AN ORDINANCE OF THE BOARD OF COUNTY
4 COMMISSIONERS OF LEON COUNTY, FLORIDA,
5 AMENDING CHAPTER 11, OF THE CODE OF LAWS OF
6 LEON COUNTY, FLORIDA, BY CREATING ARTICLE XX
7 ENTITLED “PUBLIC SERVICE TAX”; PROVIDING FOR THE
8 LEVY AND AMOUNT OF THE TAX; PROVIDING FOR THE
9 COLLECTION AND REMITTANCE OF THE TAX;
10 PROVIDING FOR COMPENSATION TO THE SELLER OF
11 THE UTILITY SERVICE FOR COLLECTING THE TAX;
12 PROVIDING THAT IT SHALL BE UNLAWFUL FOR A
13 SELLER TO FAIL TO COLLECT, REPORT AND REMIT THE
14 TAX; PROVIDING FOR EXEMPTIONS; PROVIDING FOR AN
15 AUDIT; AUTHORIZING THE PROMULGATION OF RULES
16 AND REGULATIONS; PROVIDING FOR PENALTIES;
17 PROVIDING FOR CONFLICTS; PROVIDING FOR
18 SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

19
20 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
21 COMMISSIONERS OF LEON COUNTY, FLORIDA, that:

22 Section 1. Chapter 11 of the Code of Laws of Leon County, Florida, is hereby amended by
23 adding a new Article to be numbered XX, which shall read as follows:

24 **ARTICLE XX. PUBLIC SERVICE TAX**

25
26 **Section 11-600. Levy; amount.**

27 (a) There is hereby levied and imposed by the County upon each and every purchase of
28 electricity, water, and metered or bottled gas within the unincorporated areas of the County a Public
29 Service Tax (“PST”) in the amount of ten percent (10%). Such tax shall be calculated, levied and imposed
30 upon each separate bill or statement for purchases rendered by the seller of the taxable item to each
31 purchaser of such service.

32 (b) There is hereby levied and imposed by the County upon each and every purchase of fuel
33 oil within the unincorporated areas of the County a PST in the amount of four cents (\$0.04) per gallon.

The purchase of fuel oil by a public or private utility for use as a fuel in the generation of electricity or the purchase of fuel oil for use an aircraft engine fuel or propellant or for use in internal combustion engines is exempt from taxation hereunder.

Section 11-601. Collection; remittance; compensation to seller.

(a) It shall be the duty of each seller of electricity, water, metered or bottled gas, and fuel oil to collect from the purchaser at the time of payment for such service the PST imposed and levied pursuant to the provisions of this Article. It shall be the responsibility of the seller/collector to remit all such PST imposed, levied, and collected pursuant to the provisions of this Article, to the County by the twentieth of the month following the month of collection, accompanied by a form as required by the County for the orderly reporting and certification of the necessary information.

(b) If such collections are received by the Clerk of Leon County by the twentieth of the month in accordance with the provisions of this Article, the seller/collector will be allowed a discount equal to the lesser of two percent (2%) of the taxes collected, or one thousand dollars (\$1,000.00), as compensation for collecting such tax. If such tax collections do not reach the Clerk of Leon County until after the twentieth of the month, the full amount of such tax imposed and levied will be due. Taxes not received thirty (30) days after collection will be considered delinquent.

Section 11-602. Failure to collect, report or remit tax.

It shall be unlawful for any person to continue to sell or deliver any electricity, water, metered or bottled gas, and fuel oil within the unincorporated areas of the County who shall fail to collect, report and remit to the County the PST imposed and levied pursuant to the terms of this Article. Any seller failing to collect such PST at the time of collecting the price of any purchase and sale, where the seller has not

1 elected to assume and pay such PST, shall be liable to the County for the amount of such PST in like
2 manner, as if the same had actually been paid to the seller; and the County shall bring and cause to be
3 brought all such suits and actions and take such proceedings as may be necessary for the recovery of such
4 tax. Interest shall be assessed for failure to pay any PST when due or to file any required return at a rate
5 of percent per month of the delinquent tax from the date the tax was due until paid.

6 **Section 11-603. Exemptions.**

7 The tax imposed by this Article shall not apply to purchases of electricity, water, metered or bottled
8 gas, or fuel oil by the United States government, the State of Florida, the City of Tallahassee, Leon County,
9 school districts, or to any recognized church for use exclusively for church purposes.

10 **Section 11-604. Audit.**

11 (a) Each and every seller of electricity, water, metered or bottled gas, and fuel oil within
12 the unincorporated area of the County, with respect to sales and purchases on which the tax is hereby
13 levied, shall keep full and complete records for a period of 36 months following remittance of the PST,
14 showing all purchases and sales of such electricity, water, metered or bottled gas, and fuel oil within the
15 unincorporated area of the County, which records show the price charged upon each sale and purchase,
16 the date and period of time covered thereby, and the date of payment thereof.

17 (b) The County may at its sole discretion conduct an audit of a seller/collector at such time as
18 it deems necessary, to determine that the tax imposed and levied has been properly collected and remitted
19 pursuant to the provisions of this Article. The records referred to in subsection (a) above shall, within sixty
20 (60) days prior notice by the County, be open for inspection by duly-authorized agents of the County
21 during regular business hours of the seller at a place designated by the seller at the sole expense of the

County. The agents of the County shall have the right, power, and authority to make such transcripts or
2 copies thereof as they may desire. Notice of intent to audit by the County shall be given in accordance with
3 Florida law.

4 (c) It shall be the duty of the seller/collector to remit all such taxes whether collected or not.
5 The County reserves the right to bill and collect from the seller/collector for unremitted taxes as may be
6 discovered from an audit for 36 months prior to the date upon which the audit commences.

7 **Section 11-605. Rules and regulations authorized.**

8 The County and Clerk of Leon County are hereby authorized to promulgate and establish
9 reasonable rules and regulations for the report and payment of the tax imposed and levied pursuant to the
10 provisions of this Article.

11 **Section 11-606. Penalty for Violation.**

12 Any purchaser willfully failing or refusing to pay the tax imposed by this Article, where the seller
13 has not elected to assume and pay such tax, and any seller violating the provisions of this Article, or any
14 officer, agent, or employee of any seller violating provisions of this Article, may be punished as provided
15 in Section 1-9. The County may further bring suit to a constrain, enjoin, or otherwise prevent the violation
16 of this Article and shall be entitled to reasonable attorneys fees if it prevails in such suit. The penalties
17 referenced in this section are supplementary to and in addition to the penalties set forth in Section 11-602.
18 The County retains the discretion to enforce this ordinance in any manner authorized by law or ordinance.

19 **Section 2. Conflicts.** All ordinances or parts of ordinances in conflict with the provisions of
20 this ordinance are hereby repealed to the extent of such conflict, except to the extent of any conflicts with
21 the Tallahassee-Leon County 2010 Comprehensive Plan as amended, which provisions shall prevail over

1 any parts of this ordinance which are inconsistent, either in whole or in part, with the said Comprehensive
2 Plan.

3 **Section 3. Severability.** If any word, phrase, clause, section or portion of this ordinance shall
4 be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be
5 deemed a separate and independent provision and such holding shall not affect the validity of the remaining
6 portions thereof.

7 **Section 4. Effective Date.** This ordinance shall have effect upon becoming law. The PST
8 as levied and imposed by this Article, shall become effective on October 1, 2003, and shall apply to all
9 purchases of electricity, water, metered or bottled gas, fuel oil occurring on or after October 1, 2003.

10 DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon County,
11 Florida, this 29th day of April, 2003.



LEON COUNTY, FLORIDA

12
13
14 BY: Jane G. Sauls
15 Jane G. Sauls, Vice Chairman
16 BOARD OF COUNTY COMMISSIONERS

16 ATTESTED BY:
17 BOB INZER, CLERK OF THE COURT

18
19
20 BY: [Signature]
21 CLERK

A Certified Copy
Attest:

Bob Inzer

Clerk of Circuit Court
Leon County, Florida

22
23
24
25
26
27
28
29
30
31
32 By: Sandra C. O'Neal
D.C.



23 APPROVED AS TO FORM:
24 COUNTY ATTORNEY'S OFFICE
25 LEON COUNTY, FLORIDA

26
27
28 BY: [Signature]
29 HERBERT W.A. THIELE, ESQ.
30 COUNTY ATTORNEY

31 E:\WP\Doc\LD010\PO01\00004150.WPD
32 F03-55