

AN ORDINANCE OF THE CITY OF WEST MIAMI, FLORIDA, AMENDING CHAPTER TWENTY-TWO OF THE CITY CODE BY INCREASING THE MUNICIPAL PUBLIC SERVICE TAX ON PURCHASES OF ELECTRICITY, METERED GAS, AND BOTTLED GAS; ALLOWING EXEMPTIONS PERMITTED OR REQUIRED BY STATE STATUTE; CHANGING METHOD OF COMPUTING TAX ON FUEL OIL; EXPRESSING INTENT OF SEVERABILITY; EXPRESSING INTENT THAT ORDINANCE BE MADE PART OF THE CITY CODE; IMPOSING PENALTIES FOR VIOLATIONS; AND ESTABLISHING EFFECTIVE DATE.

BE IT ENACTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WEST MIAMI, FLORIDA:

Section 1. Section 22-10 of the City Code is amended by adding thereto as subsection (m) the following:

"(m) 'fuel adjustment charge' shall mean all increases in the cost of utility services to the ultimate consumer resulting from an increase in the cost of fuel to the utility subsequent to October 1, 1973."

Section 2. Section 22-11 of the City Code is amended to read as follows:

"That there is hereby levied and imposed by the City upon each and every purchase of electricity, metered gas, and bottled gas, and fuel oil included in or reflected by any bill rendered by the seller to the purchaser on and after the first day of October 1978, an excise tax the amount whereof shall be determined and computed in accordance with the following schedules.

"SCHEDULE A

"TO BE USED WHEN THE SELLER, IN ACCORDANCE WITH HIS RULES AND REGULATIONS, RENDERS A BILL MONTHLY OR OFTENNER TO THE PURCHASER TO COVER PURCHASES MADE DURING THE PERIOD OF TIME TO WHICH THE BILL IS APPLICABLE.

"1. The amount of excise tax shall be:

Six per centum (6%) of the total amount, exclusive of governmental charges and taxes, shown on any such bill as being due and payable on account of such purchases; provided, however, that the tax on fuel oil shall not exceed 2.4¢ per gallon.

"2. The tax on electricity authorized under subsection 20-11 shall not be levied and collected on the first fifty (50) kilowatt hours per billing period purchased for residential use beginning October 1, 1978. Such exemption shall apply to each separate residential unit, regardless of whether such unit is on a separate or central meter and shall be passed on to each individual tenant. The electric utility shall compute the amount of the tax loss resulting from such exemption for each month, and

(a) deduct this amount from the tax due the state for sales and use tax under FS 212; and

(b) remit this amount to the city pursuant to the terms of Section 22-12 hereof.

"SCHEDULE B

"TO BE USED WHEN THE SELLER, IN ACCORDANCE WITH HIS RULES AND REGULATIONS, RENDERS A BILL BI-MONTHLY, QUARTERLY OR OTHERWISE LESS FREQUENTLY THAN MONTHLY, TO COVER PURCHASES MADE DURING THE PERIOD OF TIME TO WHICH THE BILL IS APPLICABLE.

- "(1) The seller shall determine what part of the total amount, exclusive of governmental charges and taxes, shown on any such bill as being due and payable on account of such purchases is, under his rules and regulations, attributable to the purchases made during each of the monthly periods included within the total period of time covered by such bill;
- "(2) Compute the amount of excise tax hereunder attributable to each such part of said total amount, as so determined, by employing, with respect to each such part, the method and procedure described in Schedule A for monthly bills; provided, that the fifty (50) kilowatt hours exemption shall be allowed for each inclusive period.
- "(3) The total amount of excise tax payable hereunder on account of any such bill shall be the arithmetical sum of all of the amounts of excise tax resulting from the computations made with respect to each such part as hereinbefore provided.

"In the use and application of the foregoing schedules; purchases of electricity, metered gas, bottled gas, and fuel oil shall be considered and treated as constituting and being distinct and unrelated classes of purchases, and in the event that more than one such class shall be shown upon the same bill, the amount of excise tax payable hereunder shall be determined and computed for each such class separately. The seller is hereby required and it shall be his duty hereunder to render to each purchaser bills covering all such purchases made, and the amount of such excise tax shall be entered and shown by the seller as a separate item on each such bill and shall become due and payable to the city whenever such bill becomes due and payable under the rules and regulations of the seller. Each such bill shall include purchases applicable to but one location, or to but one family or business where more than one family or business uses separate metered services at one location in the city. The purchaser is hereby required and it shall be his duty hereunder to pay such excise tax to the seller, as agent for the city, at the time of payment of each such bill, and in the event that the purchaser shall fail, neglect or refuse to pay such excise tax 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 excise tax, shown upon such bill shall have been paid in full. The seller is hereby authorized and required and it shall be his duty hereunder to collect such excise tax from such purchaser at the time of the payment of each such bill and to remit the same to the tax collector of the city in accordance with the provisions of

Section 22-12 of this article; provided, however, that the seller shall have the right and privilege of assuming and paying such excise tax himself in lieu of collecting the same from the purchaser; and provided further that when the seller shall fail or neglect to collect such excise tax from the purchaser as hereinbefore provided, the seller shall be deemed to have assumed such excise tax himself and shall thereupon become liable for the payment of the amount thereof to the city to the same extent as if such excise tax has been collected from the purchaser.

"Where any of the services subject to the excise tax imposed here are furnished to a recognized church of the State of Florida for use on church property which is used exclusively for church purposes, such church shall be exempt from payment of the tax thereon as provided in Section 166.231 of the Florida Statutes."

Section 3. Every person violating any of the provisions of this Ordinance shall, upon conviction thereof, be punished by a fine not to exceed the sum of Five Hundred (\$500.00) Dollars, or the imprisonment in the county jail for a term not to exceed sixty (60) days, or by both such fine and imprisonment, in the discretion of the county judge.

Section 4. That if any section, part of section, sentence or clause of this Ordinance shall be adjudged to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of any other portion of said sections, but shall be restricted and limited in its operation and effect to that specific portion of said sections involved in the litigation in which such decision shall have been rendered.

Section 5. The effective date of this Ordinance shall be October 1, 1978.

Section 6. It is the intent of the Council and it is so enacted that this Ordinance shall be incorporated into the City Code and to this effect the sections hereof may be renumbered and relettered.

PASSED AND ADOPTED, this 20th day of September, 1978.

*Valerie C. Lindsey*  
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President, City Council

ATTEST:

*Eileen Cox Campbell*  
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City Clerk

APPROVED:

*Edmund J. Cooper*  
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MAYOR

I, Eileen Cox Campbell, the undersigned City Clerk of the City of West Miami do hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the City Council on September 20, 1978.

West Miami, Florida  
September 21, 1978

*Eileen Cox Campbell*  
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