

**TOWN OF BELLEAIR  
ORDINANCE NO. 543**

**AN ORDINANCE OF THE TOWN OF BELLEAIR, FLORIDA, AMENDING CHAPTER 54 - TAXATION, ARTICLE IV – PUBLIC SERVICE TAX, OF THE CODE OF ORDINANCES, TOWN OF BELLEAIR, FLORIDA TO LEVY A MUNICIPAL PUBLIC SERVICE TAX ON THE PURCHASE OF WATER SERVICE IN THE TOWN PURSUANT TO SECTION 166.231, FLORIDA STATUTES, IN THE EVENT OF A SALE OR TRANSFER OF THE TOWN’S WATER UTILITY; MAKING RELATED FINDINGS; AND PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, as set forth in Chapter 62 – Utilities, Article III – Water System, Code of Ordinances, Town of Belleair, Florida, the Town presently operates a water utility providing water services for domestic and commercial uses in the Town; and

**WHEREAS**, the Town Commission is presently considering the sale or transfer of its water system to other entities or providers; and

**WHEREAS**, Section 166.231, Fla. Stat., permits municipalities to levy a public service tax on the purchase of water service; and

**WHEREAS**, the Town Commission desires to levy such a public service tax on the purchase of water service in the Town if a sale or transfer of the Town’s water system occurs; and

**WHEREAS**, the Town Commission therefore finds that it is in the best interests of the Town, its citizens, and its property owners to adopt this Ordinance levying a public service tax on the purchase of water service as set forth herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF BELLEAIR, that:**

**Section 1.** Chapter 54 – Taxation, Article IV – Public Service Tax, Code of Ordinances, Town of Belleair, Florida, is hereby amended to read as follows:

**ARTICLE IV. - PUBLIC SERVICE TAX**

**Sec. 54-68. - 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:

*Electric service* means electricity, metered or unmetered, sold, purchased, delivered, or received within the corporate limits of the town, including all services related to electrical customer

service, distribution transmission, and power supply.

*Purchase* means every act or transaction whereby possession of, utilization of, control over or title to local electrical or water service as context requires, within the corporate limits of the town, and the duty and obligation to pay therefore, become vested in the purchaser; but such term shall not pertain to any action or transaction when undertaken or performed by the United States Government; the State of Florida; ~~and all counties, school districts, and municipalities of the state of Florida;~~ or, public bodies exempted by law or court order, ~~within the State of Florida.~~ except for purchases by governmental bodies which sell or resell taxable service to nonexempt end users.

~~*Purchase of electricity* means the purchase of electrical power by a person, corporation or entity that will consume the electricity within the town.~~

*Purchaser* means every person legally liable for the payment for electrical or water service as the context requires, rendered to him by a seller, unless such a person is the United States Government; the State of Florida; all counties, school districts, and municipalities of the state of ~~political subdivision, counties or municipalities and within the State of Florida;~~ or a public body exempted by law or court order.

*Seller* means every person rendering electric or water service as context requires, to a purchaser thereof.

**Sec. 54-69. - Levy of tax on water and electrical service.**

There is hereby levied on every purchase of water service and electricity service ~~and all services related to electrical customer service, distribution transmission, and power supply~~ within the town a tax as authorized by law in an amount equal to ten percent of the amount of charges made by any seller, distributor, transmitter, or provider of water or electricity. The United States Government, the State of Florida, all counties, school districts, and municipalities of the state of ~~political subdivisions, counties, municipalities within the State of Florida;~~ or any public body exempted by law or by court order, are exempt from taxation under this section.

**Sec. 54-70. - Filing of return by seller of services with municipality.**

~~The~~ Sellers of electrical or water services shall file a return with the town each month. The form of the return shall be determined by the seller. The return shall be deemed sufficient if the return identified the following: the name and address of the seller; the period of the return; the amount collected from the sale of taxable electrical or water services; any collection allowance taken; the amount of tax remitted with the return; and the name and telephone number authorized by the seller to respond to inquiries from municipalities concerning the seller's administration of the tax. The town may grant an extension of the due date for a return or payment upon written request from the seller. The deduction authorized in section 54-72 herein shall not be allowed in the event of an untimely return, unless the seller has provided a written request to the town manager and the town manager has granted an extension of time for filing such return. Extensions of time shall be granted if reasonable cause is shown, whether requested before or after the due date of the

return.

**Sec. 54-71. - Duty of seller to collect, report, and remit tax; due date.**

Acting as agent of the town, it shall be the duty of every seller of electrical or water service in the town to collect from the purchaser the tax levied by this article at the time the seller collects the amount due for purchases made during the billing period, to report the amount of tax collected, and to pay such amounts to the town on or before the 15th day of the calendar month following the month such collections were made.

**Sec. 54-72. - Seller's compensation for collection of tax.**

For the purpose of compensation, the seller shall deduct one percent of the amount of the tax collected for remittance that is due to the town. This deduction is compensation for the seller for keeping records and for the collection of and remitting of the tax.

**Sec. 54-73. - Interest on unpaid tax.**

Any seller of electrical or water service, failing to remit to the town on or before the 15th day of each calendar month all such taxes levied and collected during the preceding month shall be liable for interest on the unpaid amount at the rate of one percent per month, not to exceed 12 percent per annum. This interest shall accrue from the due date until the date such taxes are paid; provided, however, that the town's approval, may settle or compromise any interest due pursuant to this section as is reasonable under the circumstances.

**Sec. 54-74. - Records to be kept by seller.**

(a) *Required records.* Each and every seller of electrical or water service shall keep at its principal place of business complete records of such service showing all purchases and sales within the corporate limits of the town, ~~of such commodities or service~~. The records shall show the charge for the service, including the utility tax charged upon each sale, the date of the charge, the date of payment thereof, and the date such utility tax was remitted to the town.

(b) *Audits.* Pursuant to F.S. § 166.234, as now enacted or as hereafter enacted or transferred, the town may conduct an annual audit of such records in the manner prescribed by law F.S. § 166.234. Failure to conduct such an audit will not eliminate the liability of the seller for collection and remittance of such tax.

(c) *Inspection of records.* Subject to 60 days' written notice and any other restrictions provided for by law, the town and its authorized representatives, shall have the authority to enter any place of business of a seller to audit, examine, and make transcripts of all such sales records, for the purpose of determining the amount of tax required to be paid by the provisions of this article, and for the purpose of verifying the correctness and accuracy of reports and statements furnished in accordance with the provisions of this article.

**Sec. 54-75. - Failure to collect tax; liability of seller.**

It shall be unlawful for any seller to collect the charge of any sale of electrical or water service, within the corporate limits of the town without at the same time collecting the tax levied by this article with respect to such sales, unless such seller shall elect to assume and pay such tax without collecting the tax from the purchaser. Any seller failing to collect the tax at the time of collecting the charge for any purchaser of electrical or water service, where the seller has not elected to assume and pay such tax, shall be liable to the town for the amount of tax in like manner as if the tax had actually had been paid to the seller. The town manager shall bring and cause to be brought all such suits and actions and take all such proceedings as may be necessary for the recovery of such tax.

**Sec. 54-76. - Default by purchasers.**

If any purchaser shall fail, neglect, or refuse to pay to the seller either the seller's charge for the tax imposed by this article, the seller shall have and is hereby invested with the right to discontinue further service to such purchaser, in accordance with the seller's regular practices, until the tax and the seller's bill have been paid in full.

**Section 2.** For purposes of codification of any existing section of the Code of Ordinances, Town of Belleair, Florida, words underlined represent new text or additions to original text, words ~~stricken~~ are deletions from the original text, and words neither underlined nor stricken remain unchanged.

**Section 3.** If any section, subsection, sentence, clause, provision, or word of this Ordinance is held unconstitutional or otherwise legally invalid, same shall be severable and the remainder of this Ordinance shall not be affected by such invalidity, such that any remainder of the Ordinance shall withstand and survive any severed provision, as the Town Commission would have adopted the Ordinance even absent the invalid part.

**Section 4.** The Codifier shall codify the substantive amendments to the Code of Ordinances, Town of Belleair, Florida contained in Section 1 of this Ordinance as provided for therein and shall not codify the exordial clauses or any other sections not designated for codification.

**Section 5.** Pursuant to § 166.041 (4), Fla. Stat., this Ordinance shall take effect immediately upon the Town's completed sale or transfer of its water system except that, pursuant to § 166.233 (2) (a), Fla. Stat., the tax levy authorized by the Ordinance shall be effective only upon the subsequent January 1, April 1, July 1, or October 1 following the Town's notification to the Department of Revenue of the adoption of such levy.

**ADOPTED ON FIRST READING** by the Town Commission of the Town of Belleair, Florida, at the meeting held on the 15<sup>th</sup> day of February, 2022.

**PUBLISHED THE 23<sup>rd</sup>** day of March, 2022.

**PASSED AND ADOPTED ON SECOND READING AND PUBLIC HEARING** this  
5<sup>th</sup> day of April, 2022.

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Michael Wilkinson, Mayor

ATTEST:

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Christine Nicole, CPM, CMC, Town Clerk