

ORDINANCE NO. 10-97

ROLL CALL

VOTING	YES	NO
MAYOR MARIE W. HUFF <i>(votes only in case of tie)</i>		
SHERMAN E. HUFF <i>Councilmember</i>	X	
MATTHEW D. BARBER <i>Councilmember</i>	X	
THORA L. SHAW <i>Councilmember</i>	X	
CLYDE A. SWENSON <i>Councilmember</i>	X	
REX WOODHOUSE <i>Councilmember</i>	<i>(absent)</i>	

I MOVE this ordinance be adopted: Councilmember Shaw

I SECOND the foregoing motion: Councilmember Huff

ORDINANCE 10-97

AN ORDINANCE ADOPTING A MUNICIPAL ENERGY SALES AND USE TAX

WHEREAS, the 1996 Utah State Legislature has adopted the Municipal Energy Sales and Use Tax Act, Utah Code Ann. §10-1-301 et seq. which authorizes municipalities to impose a sales and use tax on the delivery of energy to consumers; and

WHEREAS, as part of the enactment of the Municipal Energy Sales and Use Tax Act, the 1996 Legislature repealed Utah Code Ann. §11-26-1, effective July 1, 1997, which allowed municipalities to asses a fee on energy suppliers based upon gross revenue; and

WHEREAS, Spanish Fork City has adopted an electric revenue fee and a natural gas utility revenue fee pursuant to Utah Code Ann. §11-26-1, which fees have been a necessary source of revenue in order to fund services provided by the City; and

WHEREAS, in order to maintain the same income stream needed to fund government services, it is necessary that Spanish Fork City adopt a municipal energy sales and use tax; and

WHEREAS, in order to protect the health, safety, welfare of the residents of the City, it is necessary to provide certain government services, which must be funded;

NOW THEREFORE, be it ordained and enacted by the Spanish Fork City Council as follows:

SECTION I.

Chapter 3.24, Electric Revenue Fee and Chapter 3.28, Natural Gas Utility Revenue Fees of the Spanish Fork Municipal Code are hereby repealed effective 12:01 a.m. on July 1, 1997.

SECTION II.

Spanish Fork City Municipal Code Chapter 3.32, Municipal Energy Sales and Use Tax, is hereby enacted as follows:

3.32.010. Title.

This chapter shall be known as the Municipal Energy Sales and Use Tax Ordinance of Spanish Fork City.

3.32.020. Purpose.

The 1996 Utah Legislature has authorized municipalities of the State of Utah to enact a sales and use tax on energy suppliers as defined by Utah law in an amount up to 6% of the value of energy delivered to consumers.

It is the purpose of this ordinance to conform the energy sales and use tax of Spanish Fork City to the requirements of the Municipal Energy Sales and Use Tax Act, Utah Code Ann. § 10-1-301 et. seq.

3.32.030. Energy Sales and Use Tax.

A. 1. From and after the effective date of this ordinance, there is levied and there shall be collected and paid a tax upon every delivery of taxable energy, as defined by Utah law, which is delivered to a customer within Spanish Fork City. The amount of the Municipal Energy Sales and Use Tax shall be six percent (6%) of the value of the delivered energy to the consumer.

2. For purposes of this ordinance, the Energy Sales and Use Tax shall be based upon the market value of the energy as delivered to the consumer at the point of the meter unless the taxpayer can demonstrate that the use is not within the municipality.

3. The Municipal Energy Sales and Use Tax shall be based on the actual sales price for taxable energy sold or used by a taxpayer within the municipality, unless the sales price does not include some portion of the taxable energy or component of the delivered value.

B. 1. The definitions set forth in U. C. A. §10-1-303 are adopted and made a part of this ordinance as though fully set forth herein.

2. This ordinance does not affect any contractual franchise fee, which shall continue to be collected in addition for the energy sales or use tax.

C. There shall be excluded from the purchase price paid or charged by which the tax is measured:

1. The sales and use of aviation fuel, motor fuel, or special fuel subject to taxation under the Utah Motor and Special Fuel Tax Act;

2. The sales and use of taxable energy that the municipality is prohibited from taxing under federal law or the Constitution of United States or the Constitution of the State of Utah;

3. The sales and use of taxable energy purchased or stored in the state for resale;

4. The sales or use of taxable energy to a person if the primary use is for use for compounding or producing taxable energy or fuel subject to taxation under the Utah Motor and Special Fuel Tax Act;

5. The taxable energy brought into the state by a nonresident for the nonresident's own personal use or enjoyment while within the state, except a taxable energy purchased for use in the state by a nonresident living or working in the state at the time of purchase;

6. The sales or use of taxable energy for any purpose other than use as fuel energy;
and

7. The sale of taxable energy for use outside of the municipality.

D. An additional license to collect the tax is not required if one has been issued under Utah Code Ann. §59-12-206.

3.32.040. Mayor Authorized to Execute Documents.

The Mayor is authorized to execute whatever documents are necessary to distribute the energy sales and use tax revenues in compliance with the Municipal Energy Sales and Use Tax Act.

3.32.050. Collection of Taxes.

A. In those instances when the energy supplier is a municipality, the municipality shall be obligated to collect the tax from its customers and to pay the same directly to Spanish Fork City.

B. In those instances when the energy supplier estimates that the municipal energy sales and use tax collected annually from its Utah customers equals one million dollars or more, the energy

supplier shall collect the tax and remit it directly to Spanish Fork City.

C. In those instances when the energy supplier does not estimate that the municipal energy sales and use tax collected annually from its Utah customers equals one million dollars or more, the energy supplier shall collect the tax and shall remit the same to Utah State Tax Commission for disbursement to Spanish Fork City.

D. In those instance when the energy supplier is paying the tax to Spanish Fork City directly under this part, the energy supplier may retain the percentage of the tax authorized under Utah Code Ann. §59-12-208 (3) for its costs of collecting and remitting the tax.

3.32.060. Remittance.

The energy supplier incurring an energy sales or use tax under this chapter shall submit a report to the City within forty-five days after the end of each calendar month. The report shall indicate the gross revenues received from the delivery of taxable energy within Spanish Fork City during the applicable month. Together with the report, payment of the six percent (6%) energy sales and use tax shall be remitted to Spanish Fork City except those sums authorized to be retained by Utah Code Ann. §59-12-208(3).

3.32.070. Inspection.

Spanish Fork City shall have the right, after giving reasonable notice, to inspect the books and records of any energy supplier delivering energy within the City to determine the accuracy of the monthly reports submitted to the City. The inspection shall be limited to books and records pertaining to the customers receiving taxable energy within the City boundaries.

3.32.080. Condition of Service.

Compliance with all of the requirements of this chapter is a condition precedent to providing

or delivering taxable energy within Spanish Fork City.

3.32.090. Effective Date.

The Municipal Energy Sale and Use Tax , as imposed herein, shall commence as of the 30th day of June 1997.

SECTION III.

This Ordinance shall become effective on the 30th day of June, 1997

PASSED AND ORDERED PUBLISHED BY THE SPANISH FORK CITY COUNCIL OF
SPANISH FORK, UTAH, this 20th day of May, 1997.

DATED this 20th day of May, 1997.



MARIE W. HUFF, Mayor

ATTEST:



KENT R. CLARK, City Recorder



