ORDINANCE NO. 12-97

ROLL CALL

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

I MOVE this ordinance be adopted: Councilmember Barber
I SECOND the foregoing motion: Councilmember Woodhouse

ORDINANCE 12-97

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WHEREAS, as part of the enactment of the Municipal Energy Sales and Use Tax Act, the 1996 Legislature repealed Utah Code Ann.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Electric Revenue Fee and Chapter 3.28, Natural Gas Utility Revenue Fees of the Spanish Fork Municipal Code are hereby repealed effective 12:01 a.m. on July 1, 1997.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 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 determining the tax and the value of delivered energy, regulations as promulgated by the Utah State Tax Commission shall be applicable and are adopted herein, by this reference..

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.

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, or may disburse directly to Spanish Fork City if authorized by the Utah State Tax Commission.

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. Remittence.

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 17th day of June, 1997.

DATED this 17th day of June, 1997.

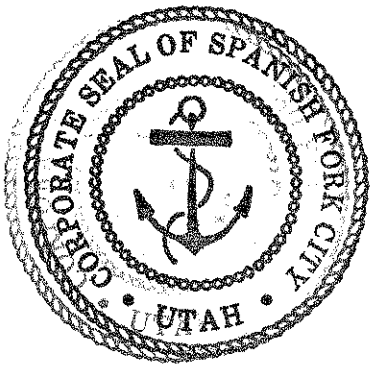
Marie W. Huff

MARIE W. HUFF, Mayor

ATTEST:

Gina Peterson

GINA PETERSON, Deputy Recorder



STATE OF UTAH :
}ss.
COUNTY OF UTAH :

GINA PETERSON, being first duly sworn, deposes and says that she is the duly appointed and qualified deputy recorder of Spanish Fork City, County of Utah, State of Utah; that as part of her duties to keep the minutes, resolutions, and ordinances of Spanish Fork City, that the attached ordinance is the same as the ordinance passed on the 17th day of June, 1997, by the Spanish Fork City Council.

Gina Peterson
GINA PETERSON, Deputy Recorder

Subscribed and sworn to before me this 17 day of June, 1997.

Mary-Clare Maslyn
NOTARY PUBLIC

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NOTARY PUBLIC
MARY-CLARE MASLYN
40 South Main
Spanish Fork, Utah 84660
My Commission Expires 9-1-2000
State of Utah

Proof of Publication

J. L... first duly sworn according to law, disposes and says that he is the ***Publisher*** of ***THE SPANISH F...*** y newspaper, printed and published at Spanish Fork, Utah County, Utah, and of general circulation th..., a copy of which is hereto attached, was printed and published in said paper.

for One consecutive weeks,

the first publication on the 3 day

of July 19 97

and the last on the 03 day of

July 19 97

Sara Henderson

ORDINANCE 12-97

AN ORDINANCE ADOPTING A MUNICIPAL ENERGY SALES AND USE TAX

A summary of the amended Ordinance is as follows:

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

3.32.010 Title.

3.32.020 Purpose.

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.

3.32.040 Mayor Authorized to Execute Documents.

3.32.050 Collection of Taxes.

3.32.060 Remittence.

3.32.070 Inspection.

3.32.080 Condition of Service.

3.32.090 Effective Date.

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 17th day of June, 1997.

A full copy of the ordinance is available for inspection and review at the Spanish Fork City Office; 40 South Main, Spanish Fork.

Published in the Spanish Fork Press on July 3, 1997.

Subscribed and sworn to before me this 03 day of July 19 97

Sara Worthington

Notary Public

SARA WORTHINGTON
NOTARY PUBLIC · STATE of UTAH
6705 SOUTH 4000 WEST
SPANISH FORK, UT 84660
COMM. EXP. 3-14-99

Residing at Spanish Fork, Utah

My Commission expires 3-14-99