

Chapter 21 TAXATION*

*Cross reference(s)--Administration, Ch. 2; City finances, Ch. 8A; licenses, Ch. 12.

State law reference(s)--Municipal finance and taxation, F.S. <sec> 166.201 et seq.;
taxation and finance generally, F.S. Ch. 192 et seq.

Art. I. Reserved, <sec> 21-1

Art. II. Reserved, <sec><sec> 21-2--21-4

Art. III. Electricity; Metered or Bottled Gas; Water,
Telecommunication Service, <sec><sec> 21-5--21-15

Art. IV. Premiums from Casualty Insurance Policies, <sec><sec>
21-16--21-18

Art. V. Premiums from Property Insurance Policies, <sec><sec> 21-19- -21-21

ARTICLE I. RESERVED*

*Editor's note--Ord. No. 569-79, <sec> 1, adopted Nov. 7, 1979, repealed former Art. I
of Ch. 21, which consisted of <sec><sec> 21-1 and 21-1.1, pertaining to delinquent
taxes, their manner of collection, and the authorization of the county tax assessor and
collector to assess and collect City taxes. Former Art. I was derived from Ord. No. 109,
<sec><sec> 1, 2, adopted Feb. 15, 1938, and Ord. No. 357, <sec><sec> 1, 2, adopted
Aug. 17, 1971.

Sec. 21-1. Reserved.

ARTICLE II. RESERVED*

*Editor's note--Ord. No. 719-83, <sec> 1, adopted Aug. 3, 1983, repealed former Art. II
of Ch. 21, which consisted of <sec><sec> 21-2-- 21-4, pertained to cigarettes and was
derived from Ord. No. 164, <sec><sec> 1--3, adopted Oct. 4, 1949; Ord. No. 26 9,
<sec><sec> 1--3, adopted June 18, 1963; and Ord. No. 303, <sec><sec> 1--3, adopted
March 19, 1968.

Secs. 21-2--21-4. Reserved.

**ARTICLE III. ELECTRICITY; METERED OR BOTTLED GAS; WATER,
TELECOMMUNICATION SERVICE***

*Cross reference(s)--Public utilities, Ch. 17.

State law reference(s)--Public service tax, F.S. <sec> 166.231; gross receipts tax, F.S.
Ch. 203.

Sec. 21-5. Levy.

- (a) There is hereby levied by the City a tax on each and every purchase of electricity, metered or bottled gas (natural liquefied petroleum gas or manufactured). The tax shall be levied only upon purchases within the City. The amount shall be ten (10) per cent of the first five hundred dollars (\$500.00) and three (3) percent thereafter of payments received by the seller of the taxable item from the purchaser of such service.
- (b) There is hereby levied by the City a tax on each and every purchase of water service. The tax shall be levied only upon purchases within the City. The amount thereof, shall be ten (10) per cent for residential dwellings, including multi-family dwellings and mobile homes, of payments received by the seller of the taxable item from the purchaser of such water service. The tax on commercial water service accounts will be ten (10) per cent of payments received by the seller of the taxable item from the purchaser of such water service. The tax on commercial water service accounts shall be ten (10) percent of payments received by the seller of the taxable item from the purchaser of such service provided, however, that such tax to the user collected by any separate seller or service shall not exceed the sum of one hundred dollars (\$100.00) per month.
- (c) There is hereby imposed and levied by the City, on the purchase of telecommunications service which originates and terminates in the State of Florida, a seven percent (7%) telecommunications tax on the total amount charged for any telecommunications service provided within the City or, if the locations of the telecommunication service provided cannot be determined as part of the billing process, the total amount billed for such telecommunications service to a telephone or telephone number, a telecommunications number or device, a service address, or a customer's billing address located within the municipality, excluding public telephone charges collected on site, charges for any foreign exchange service or any private line service except when such services are used or sold as a substitute for any telephone company switched service or dedicated facility by which a telephone company provides a communication path, access charges, and any customer access line charges paid to a local telephone company.
- (d) Telecommunications service as defined in Section 202.11(2) of the Florida Statutes shall be taxed only on the monthly recurring customer service charges excluding variable usage charges. The term "telecommunication service" means:

- (1) Local telephone service, toll telephone service, telegram or telegraph service, teletypewriter or computer exchange service, or private communication service; or
 - (2) Cellular mobile telephone or telecommunication service, or specialized mobile radio, and pagers and paging, service, including but not limited to "beepers" and any other form of mobile and portable one-way or two-way communication; but does not include services or equipment incidental to telecommunication services enumerated in this paragraph such as maintenance of customer premises equipment, whether owned by the customer or not, or equipment sales or rental for which charges are separately stated, itemized, or described on the bill, invoice, or other tangible evidence of the provision of such service.
- (e) For the purpose of compensating the seller of telecommunication services, the seller shall be allowed one percent (1%) of the amount of the tax collected and due to the municipality in the form of a deduction from the amount collected for remittance. The deduction shall be allowed as compensation for the keeping of records and for the collection of, and the remitting of, the tax. This deduction shall not be allowed in the event of an untimely return, unless the seller has in writing requested and been granted an extension of time for filing such return in accordance with Section 166.231(9)(f), Florida Statutes.
- (f) The tax imposed by paragraph (a) above shall not be applied against any fuel adjustment charge, and such charge shall be separately stated on each bill. The term "fuel adjustment charge" means 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.
- (g) Services competitive with those enumerated in paragraphs (a) and (b) above shall be taxed on a comparable basis at the same rates. However, fuel oil shall be taxed at a rate not to exceed four cents (\$0.04) per gallon.
- (h) The purchase of natural gas or fuel oil by a public or private utility, either for resale or for use as fuel in the generation of electricity, or the purchase of fuel oil or kerosene for use as an aircraft engine fuel or propellant or for use in internal combustion engines is exempt from the tax.

(Ord. No. 140, <sec> 1, 7-16-46; Ord. No. 706-83, <sec> 1, 2-16-83; Ord. No. 799-85, <sec> 1, 6-5-85; Ord. No. 897-87, <sec> 1, 12-16-87; Ord. No. 960-89, <sec> 2, 7-5-89; Ord. No. 1211-98, <sec> 1, 02-04-98; Ord. No. 1537-08, <sec> 1, 01-02-08)

State law reference(s)--Telecommunication service defined, F.S. <sec> 203.012(5).

Sec. 21-6. Collection from purchases--Generally.

- (a) It shall be the duty of every seller of electricity, metered or bottled gas (natural or manufactured of any kind whether bottled or otherwise), fuel oil, water service and telecommunication service, to collect from the purchaser, for the use of the City, the tax hereby levied, at the time of collecting the selling price charged for each transaction, and to file a return and pay over, on or before the twentieth day of each calendar month, to the City, all such taxes levied and collected during the preceding calendar month. It shall be unlawful for any seller to collect the price of any sale of electricity, metered or bottled gas (natural or manufactured of any kind whether bottled or otherwise), fuel oil, water service and telecommunication service, without at the same time collecting the tax hereby levied in respect to such sale or sales, unless such seller elects to assume and pay such tax without collecting the same from the purchaser. Any seller failing to collect such tax at the time of collecting the price of any sale, where the seller has not elected to assume and pay such tax, shall be liable to the City for the amount of such tax in like manner as if the same had been actually paid to the seller, and the City Council shall cause to be brought all suits and actions and to take all proceedings in the name of the City as may be necessary for the recovery of such tax; provided, however, that the seller shall not be liable for the payment of such tax upon uncollected bills. If any purchaser shall fail, neglect or refuse to pay to the seller the seller's said charge and the tax hereby imposed and [which] is hereby required on account of the sale for which such charge is made, or either, the seller shall have and is hereby vested with the right, power and authority to immediately discontinue further service to such purchaser until the tax and the seller's bill shall have been paid in full.
- (b) Notwithstanding any other provision of this section, in the event the total amount of tax anticipated to be collected within a calendar quarter does not exceed \$120.00, the seller of such service may, with the written authorization of the City, remit the taxes collected during such calendar quarter to the City quarterly. In such case, the tax shall be due on or before the twentieth day of the month following the end of the calendar quarter in which the taxes were collected.
- (c) A seller of services which are subject to the tax imposed by the City shall file a return with the City each month. The form of the return shall be determined by the seller, and the return shall be deemed sufficient if it identifies the name and address of the seller, the period of the return, the amount collected from the sale of taxable services, any collection allowance taken, the amount of tax remitted with the return, and the name and telephone number of a person authorized by the seller to respond to inquiries from the City concerning the seller's administration of the tax.

(Ord. No. 140, <sec> 2, 7-16-46; Ord. No. 706-83, <sec> 1, 2-16-83; Ord. No. 897-87, <sec> 1, 12-16-87; Ord. No. 960-89, <sec> 3, 7-5-89; Ord. No. 1211-98, <sec> 2, 02-04-98)

Sec. 21-7. Records.

- (a) Each and every seller of electricity, metered or bottled gas (natural or manufactured of any kind whether bottled or otherwise), fuel oil, water service and telecommunication service shall keep complete records showing all sales in the City of such commodities or service, which records shall show the price charged upon sale, the date of payment therefor, the amount of taxes charged upon each sale, and the date such utility tax was remitted to the City, and said records shall be kept open for inspection by authorized agents of the City during business hours on all business days, and said duly authorized agents of the City shall have the right, power and authority to make such transcripts thereof during such times as they may desire.
- (b) Pursuant to Section 166.234, Florida Statutes, the City may, during the seller's normal business hours at the official location of the seller's books and records, audit the records of any seller of a service that is taxable by the City under Section 166.231 or 166.232, Florida Statutes, for the purpose of ascertaining whether taxable services have been provided or the correctness of any return that has been filed or payment that has been made, if the City's power to assess tax or grant a refund is not barred by the applicable limitations period. Each such seller must provide to the City, upon sixty days' written notice of intent to audit from the City, access to applicable records for such service, except an extension of this sixty day period must be granted if reasonably requested by the seller. The seller may at its option waive the sixty day notice requirement. If either the City or the seller requires an additional extension, it must give notice to the other no less than 30 days before the existing extension expires, except in cases of bona fide emergency or waiver of the notice requirement by the other party. In an audit, the seller is liable only for its taxable accounts collected which correspond to the information provided to it by the City under Section 166.233(3), Florida Statutes. As used in this section "applicable records" means records kept in the ordinary course of business which establish the collection and remittance of taxes due. Such applicable records may be provided to the City on an electronic medium if agreed to by the seller and the City.

(Ord. No. 140, <sec> 3, 7-16-46; Ord. No. 706-83, <sec> 1, 2-16-83; Ord. No. 897-87, <sec> 1, 12-16-87; Ord. No. 960-89, <sec> 5, 7-5-89; Ord. No. 1211-98, <sec> 4, 02-04-98; Ord. No. 1537-08, <sec> 1, 01-02-08)

Sec. 21-8. Exemptions.

- (a) Purchases by the United States Government, the State of Florida and all counties, school districts, and municipalities of the State, and by public bodies exempted by law or court order, are exempt from the tax authorized by Section 21-5 and churches

shall be exempt provided however that exempt purchases by churches shall be only for those used exclusively for church purposes. Governmental bodies which sell or resell taxable service to nonexempt end users must collect and remit the tax levied under Sec. 21-5.

- (b) Religious institutions that possess a consumer certificate of exemption issued under Chapter 212, Florida Statutes, are hereby exempted from payment of the tax levied by Sec. 21-5(c).
- (c) Purchases of telecommunications service for use in the conduct of a telecommunications service for hire or otherwise for resale are exempt from the tax levied by Sec. 21-5(c).

(Ord. No. 140, <sec> 4, 7-16-46; Ord. No. 569.79, <sec> 2, 11-7.79; Ord. No. 706-83, <sec> 1, 2-16-83; Ord. No. 897-87, <sec> 1, 12-16-87; Ord. No. 1211-98, <sec> 5, 02-04-98)

Sec. 21-9. Disposition of funds.

All revenues received, collected and derived from the taxes levied by this article shall be deposited by the City in its general operating account and are hereby appropriated for the uses set forth and contained in the budget of the City, for the current year, and the tax and the items for which the same shall be disbursed shall be included from year to year in the general operating account of the City in the annual budget and appropriation ordinances of the City.

(Ord. No. 140, <sec> 7, 7-16-46; Ord. No. 706-83, <sec> 1, 2-16-83; Ord. No. 897-87, <sec> 1, 12-16-87)

Sec. 21-10. Procedures for informing sellers of tax levies and related information.

- (a) The City shall provide to any person, within 20 days following receipt of the person's written request, a copy of the ordinance adopting any levy and all amendments thereto, and shall advise such person in writing of the types of media on which the lists described in this subsection are available, the charges, if any, for supplying the lists on each available medium, and the address to which a request for such lists should be transmitted. Within 20 days following receipt of a written request therefor, accompanied by payment of the cost, the municipality shall transmit the following to the person requesting them:
 - (1) A list containing each street name, known street name aliases, street and address number ranges, applicable directionals, and zip codes associated with each street name, for all street addresses located within the City. For a range of street address numbers located within a municipality which consists only of odd or even street numbers, the list must specify whether the street numbers in the range are odd or even. The list shall be alphabetical, except that numbered streets shall be in numerical sequences;

- (2) A list containing each postal zip code and all the City names associated therein for all the codes assigned to geographic areas located entirely within the municipality, including zip codes assigned to post office boxes;
 - (3) A sequential list containing all post office box number ranges and the City names and the codes associated therewith, for all post office boxes located within the municipality, except the post office boxes with postal zip codes entirely within the municipality which are included in the list furnished under (2) above need not be duplicated.
- (b) The lists shall be printed, except that, if a list is available on another medium, the City shall, upon request, furnish the list on such medium in addition to or in lieu of the printed lists. The City shall be responsible for updating the lists as changes occur and for furnishing this information to all sellers affected by the changes. Each update shall specify an effective date which shall be either the next ensuing January 1, April 1, July 1, or October 1; shall be furnished to sellers not less than 60 days prior to the effective date; and shall identify the additions, deletions and other changes to the preceding version of the list. The seller shall be responsible for charging the tax only to service and billing addresses maintained in the lists which include all the elements required herein, including lists furnished to it by the City without the seller's request. The City shall be entitled to collect a fee not to exceed the actual cost of duplicating the information furnished to the person requesting it.

(Ord. No. 706-83, <sec> 1, 2-16-83; Ord. No. 987-87, <sec> 1, 12-16-87; Ord. No. 1211-98, <sec> 7, 02-04-98)

Sec. 21-11. Interest and penalty for late payments.

Any seller of electricity, metered or bottled gas (manufactured or natural), fuel oil, water service and telecommunications service failing to remit to the City on or before the twentieth day of each calendar month or quarter, as applicable, all such taxes levied and collected during the preceding month or quarter shall be liable for interest on the unpaid amount at the rate of one percent (1%) per month from the date the tax was due until paid. In addition, penalties will be assessed at a rate of five percent (5%) per month of the delinquent tax, not to exceed a total penalty of twenty-five percent (25%), except that in no event will the penalty be less than \$15.00. In the case of a fraudulent return or willful intent to evade payment of the tax, the seller making such fraudulent return or willfully attempting to evade payment of the tax, shall be liable for a specific penalty of one hundred percent (100%) of the tax. Interest and penalties shall be computed on the net tax due after application of any overpayments. This interest and penalties shall accrue from the due date until the date such taxes are paid, provided however, that the City may settle or compromise any interest due pursuant to this section as is reasonable under the circumstances.

(Ord. No. 960-89, <sec> 6, 7-5-89; Ord. No. 1211-98, <sec> 8, 02-04-98)

Secs. 21-12, 21-13. Reserved.

ARTICLE IV. PREMIUMS FROM CASUALTY INSURANCE POLICIES*

*Editor's note--Ord. No. 216, <sec><sec> 1, 2 and 4, enacted Nov. 19, 1957 and codified as <sec><sec> 21-16--21-18 respectively, did not expressly amend this code, hence the manner of codification was at the discretion of the editors. Sec. 3 of said ordinance, the effective date, has not been codified.

State law reference(s)--Authority for this article, F.S. <sec> 185.08.

Sec. 21-14. Levy of tax; rate prescribed.

There is hereby assessed, imposed and levied on every insurance company, corporation or other insurer now engaging in or carrying on or which shall hereafter engage in or carry on, the business of insuring with respect to casualty risks, as shown by the records of the insurance commissioner of the State of Florida, an excise or license tax in addition to any license tax or excise tax now levied by the City, which said tax shall be in the amount of eighty-five one-hundredths (0.85) percent of the gross amount of receipts of premiums from policyholders on all premiums collected on casualty insurance policies covering property within the corporate limits of the City.

(Ord. No. 216, <sec> 1, 11-19-57; Ord. No. 944-89, <sec> 1, 2-1-89; Ord. No. 1084-93 <sec> 2, 8-18-93)

Sec. 21-15. Due date.

The license or excise tax herein levied shall be due and payable annually on the first day of March of each year hereafter.

(Ord. No. 216, <sec> 2, 11-19-57) Ord. No. 1084-93 <sec> 2, 8-18-93)

Sec. 21-16. Disposition of proceeds.

The tax so collected shall go into the "Police Officers' Retirement Fund" of the City as set out in Chapter 185, Florida Statutes.

(Ord. No. 216, <sec> 4, 11-19-57; Ord. 569-79, <sec> 3, 11-7-79)

ARTICLE V. PREMIUMS FROM PROPERTY INSURANCE POLICIES

Sec. 21-17. Levy of tax; rate prescribed.

There is hereby assessed and imposed on every insurance company, corporation or other insurer now engaged in or carrying on, or which may hereafter engage in or carry on, the business of property insurance as shown by the records of the department of insurance of the State of Florida, an excise tax in addition to any license tax or excise tax not levied by the City, which said tax shall be in the amount of one and eighty-five one-hundredths (1.85) percent of the gross amount of receipts of premiums from

policyholders on all premiums collected on property insurance policies covering property within the corporate limits of the City.

(Ord. No. 569-79, <sec> 4, 11-7-79; Ord. No. 944-89, <sec> 2, 2-1-89; Ord. No. 1085-93, <sec> 1, 8-18-93)

State law reference(s)--Authority for this article, F.S. <sec> 185.08.

Sec. 21-18. When tax payable.

Said excise or license tax shall be payable annually on the first day of March of each year hereafter.

(Ord. No. 569-79, <sec> 4, 11-7-79)

Sec. 21-19. Disposition of proceeds.

The tax so collected shall go into the Firemen's Retirement Fund of the City of Punta Gorda as set out in Chapter 175, Florida Statutes.

(Ord. No. 569-79, <sec> 4, 11-7-79)

State law reference(s)--Municipal firefighters pension trust funds, F.S. Ch. 175.

Each known seller of items taxable hereunder shall be notified in writing of any change in boundaries or in the rate of taxation.

(Ord. No. 706-83, <sec> 1, 2-16-83; Ord. No. 897-87, <sec> 1, 12-16-87)