

TOWN OF SAN ANSELMO

ORDINANCE NO. 840

ADDING CHAPTER 5 - GAS & ELECTRICITY USERS TAX, TO TITLE
8 OF THE SAN ANSELMO MUNICIPAL CODE

The Town Council of the Town of San Anselmo does ordain as follows:

Section 1. Chapter 5 is added to Title 8 of the San Anselmo Municipal Code, to read as follows:

Section 8-5.01. Title.

This chapter shall be known as the "Gas and Electricity Users Tax of the Town of San Anselmo."

Section 8-5.02. Authority; Purpose.

The tax imposed pursuant to this chapter is levied pursuant to the authority contained in Section 37100.5 of the Government Code of the State of California solely for the purpose of providing revenue for the usual current expenses of Town and is not for regulatory purposes.

Section 8-5.03. Definitions.

For the purposes of this chapter the following words and phrases shall have the following meanings:

(a) Month. A calendar month.

(b) Service Supplier. A public utility delivering electrical energy by wire and/or gas through mains or pipes, and making a charge therefor.

(c) Service user. A person receiving, using, or responsible for payment of charges for electrical energy and/or gas delivered by a service supplier.

(d) Tax Administrator. The Town Administrator.

Section 8-5.04. Exemptions.

(a) Nothing in this chapter shall be construed as imposing a tax upon Town or on any person when imposition of such tax upon that person would be in violation of the constitutions of the United States or the State of California.

(b) Nothing in this chapter shall be construed as imposing a tax upon a service supplier as to electrical energy or gas received for resale, or as to gas used by a service supplier for the generation of electrical energy.

Section 8-5.05. Levy; Rate; Collection; Remittance

(a) A tax is hereby levied on every service user in Town at an initial rate of 8.7% of the charges made to each service user by the service supplier delivering in Town. The rate of tax may be adjusted from time to time by resolution of the Town Council.

(b) The tax shall be collected by the service supplier from the

service user. The amount collected in a given month shall be remitted to the Tax Administrator on or before the last day of the following month.

(c) The duty to collect tax from a service user shall commence with the beginning of the first regular billing period of the service supplier which starts on or after the operative date of this ordinance, but not earlier than meter readings performed August 2, 1983. Where a user receives more than one billing, one or more being for different periods than another, the duty to collect shall arise separately for each billing period.

(d) The tax shall be collected insofar as practicable at the same time as and along with the charges made in accordance with regular billing practice of the service supplier. Except in those cases where a service user pays the full amount of such charges but does not pay any portion of a tax imposed by this chapter or where a service user has notified the service supplier in writing that he is refusing to pay the tax imposed by this chapter, if the amount paid by a service user is less than the full amount of the charge and tax which has accrued for the billing period, a proportionate share of both the charge and the tax shall be deemed to have been paid.

(e) The tax administrator and service supplier may make an administrative agreement to vary the strict requirements of Section 8-5.05(b) through (d) to conform with the billing procedure of the service supplier, so long as the over-all result of such agreement conforms with the general purpose and scope of this Chapter. A copy of such agreement shall be on file and available for public examination in the tax administrator's office.

Section 8-5.06. Non-Payment.

(a) The tax required to be paid under this chapter shall be deemed a debt owed by the service user to Town, for which the service user shall be liable to an action for recovery brought by Town, including costs and interest @ 1% per month or fraction thereof.

(b) Notwithstanding Section 8-5.06(a), any tax due but not paid by a service user to the service supplier as of June 30 of any year shall, after notice by the Tax Administrator via certified mail to the owner of the property to which the electrical energy or gas was delivered, become a lien against the property and may be collected in the same manner as real property taxes.

(c) Any tax collected by the service supplier but not remitted to Town per Section 8-5.05 shall be deemed a debt owed by the service supplier to Town, for which the service supplier shall be liable to an action for recovery brought by Town, including costs and interest @ 1% per month or fraction thereof.

Section 8-5.07. Refunds and Rebates.

(a) The service supplier may claim a refund or credit for an amount over-remitted, remitted more than once, or erroneously collected, subject to submittal

of proof satisfactory to the Tax Administrator.

(b) The Tax Equity Board heretofore established by separate resolution shall receive and act on applications for full or partial rebate from persons claiming inability to pay the tax herein provided.

Section 8-5.08. Records

The service supplier shall keep for a period of three (3) years all records pertaining to collection and remittance of the tax, which records the Tax Administrator may inspect during business hours.

Section 8-5.09. Jurisdiction of Public Utilities Commission.

Nothing contained in this chapter is intended to conflict with applicable rules, regulations and tariffs set by the Public Utilities Commission of the State of California. In the event of any conflict, the provisions of such rules, regulations and tariffs shall control.

Section 8-5.10. Severability

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, no other provision of this ordinance shall be affected thereby.

Section 8-5.11. Operative Date.

This chapter relates to taxes for the usual and current expenses of Town and shall go into effect immediately.

Dated: July 12, 1983.

Anne Wooliever
ANNE WOOLIEVER, Mayor

ATTEST:

M. E. Hanson
M. E. HANSON, Deputy Town Clerk

I hereby certify that the foregoing ordinance was adopted at a regular meeting of the San Anselmo Town Council held on July 12, 1983 by the following vote:

- AYES: Councilmembers Toal, Ollinger, Wooliever
- NOES: Councilmembers Capurro, Buckle
- ABSENT: None

M. E. Hanson
M. E. HANSON, Deputy Town Clerk