Ordinance No. 5806

CITY OF
Boca Raton

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DATE: August 13, 2026

TO: Mayor and City Council

FROM: Mark Sohaney
City Manager

RE: **ORDINANCE TO AMEND CHAPTER 15, "TAXATION AND FINANCE," ARTICLE III, "PUBLIC SERVICE TAX," DIVISION 2, "UTILITIES," OF THE CODE OF ORDINANCES**

RECOMMENDATION: I recommend the adoption of the proposed amendments to Chapter 15, Article III, Division 2, "Utilities," of the City Code of Ordinances to clarify that reclaimed water service is included within the definition of "Water Service" for purposes of the city's public tax service, and to remove outdated revenue earmarks contained in Section 15-68.

BACKGROUND: Since 1958 the City of Boca Raton has imposed an excise tax on water service pursuant to state law, evolving from a tiered rate under Ordinance No. 334 to a flat 6.5% rate in 1965 (Ordinance No. 1017), removal of the cap in 1972 (Ordinance No. 1688), modernization and retention of the 6.5% rate in 1981 (Ordinance No. 2928), successive increases to 7.5% in 1984 (Ordinance No. 3276) and 8.5% in 1986 (Ordinance No. 3524) with earmarks for beautification and capital improvements, and finally to 10% in 1996 (Ordinance No. 4278), with Ordinance No. 4296 dedicating the incremental revenue above 8.5% to the Mizner Park bond deficiency fund (sunsetting in 2018), resulting in the current Code (Chapter 15, Article III) which maintains the 10% excise tax on water service, its earmarked revenue structure, and enforcement through water bill inclusion and service discontinuation for nonpayment.

The City provides both potable water and reclaimed water. While reclaimed water is already a component of the City's overall water utility system, the Code does not explicitly address its treatment under the public service tax. The proposed ordinance clarifies that reclaimed water service is included within the definition of "Water Service" and is therefore subject to the public service tax in the same manner as potable water. Additionally, the ordinance removes outdated revenue earmarks in Section 15-68 to align the Code with current financial practices.

FISCAL IMPACT: There is no fiscal impact.

STRATEGIC IMPACT: This Ordinance Amendment supports the following Strategic Focus Area: Financially Sound.

DOCUMENT ORIGINATED BY: Sharon McGuire, C.P.A., C.G.F.O.
Director, Office of Management and Budget

City of Boca Raton

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ORDINANCE

5806

AN ORDINANCE OF THE CITY OF BOCA RATON, FLORIDA, AMENDING CHAPTER 15, "TAXATION AND FINANCE," ARTICLE III, "PUBLIC SERVICE TAX," OF THE CODE OF ORDINANCES; AMENDING SECTION 15-68, TO REMOVE MANDATORY ALLOCATIONS OF CERTAIN PUBLIC SERVICE TAX REVENUES; AMENDING SECTION 15-66, "DEFINITIONS," TO CLARIFY THAT "WATER SERVICE" INCLUDES POTABLE WATER AND RECLAIMED WATER; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Boca Raton imposes public service taxes pursuant to Section 166.231, Florida Statutes, and Chapter 15, Article III of the City Code; and

WHEREAS, Chapter 15 currently requires specified portions of the City's public service tax revenues to be allocated to the Right-of-Way Beautification Capital Projects Fund and the Five-Year Capital Improvements Program Fund; and

WHEREAS, in 1984, by Ordinance No. 3276, the City Council increased the public service tax rate from 6.5 percent to 7.5 percent and directed the revenues attributable to that increase to the Right-of-Way Beautification Capital Projects Fund; and

WHEREAS, in 1986, by Ordinance No. 3524, the City Council increased the public service tax rate from 7.5 percent to 8.5 percent and directed the revenues attributable to that increase to the City's Five-Year Capital Improvements Program Fund; and

WHEREAS, those revenue allocations have remained in the City Code for approximately four decades, during which time the City's annual budgeting, capital planning, revenue structure, service obligations, and financial needs have substantially evolved; and

WHEREAS, while right-of-way beautification and capital improvements continue to be important municipal purposes, the City Council finds that the amounts appropriated for those purposes are more appropriately determined through the City's annual operating budget and capital improvement planning processes rather than through fixed revenue allocations prescribed by ordinance; and

WHEREAS, removal of the mandatory revenue allocations does not prohibit, restrict, or otherwise limit the City Council from continuing to appropriate public service tax revenues for right-of-way beautification or capital improvements, and such revenues may continue to be used for those purposes in amounts determined by the City Council through the annual budget and capital improvement planning processes; and

WHEREAS, the City Council finds that eliminating the fixed allocations does not constitute a determination that right-of-way beautification or capital improvements are no longer appropriate uses of public service tax revenues, but instead permits the amount appropriated for those purposes to be determined annually based upon the City's then-current needs, priorities, available revenues, and other funding sources; and

WHEREAS, following removal of the mandatory allocations, the City Council may appropriate public service tax revenues for right-of-way beautification and capital improvements in amounts that are less than, equal to, or greater than the amounts that would otherwise have been allocated under the existing Code, as determined through the City's annual budget and capital improvement planning processes; and

WHEREAS, the City Council finds that the existing mandatory allocations restrict the City's ability to respond to changing municipal needs and priorities and that removal of those allocations will provide greater flexibility in the allocation of public service tax revenues without restricting the continued use of such revenues for right-of-way beautification or capital improvements; and

WHEREAS, after consideration of the City's current and anticipated revenue requirements and municipal service and capital needs, the City Council finds that continuation of the City's existing public service tax rates is appropriate notwithstanding the removal of the historical mandatory revenue allocations; and

WHEREAS, the City Council therefore desires to remove the mandatory revenue allocations presently contained in sections 15-68 and 15-93 so that such revenues may be appropriated through the City's annual budget and capital improvement planning processes for right-of-way beautification, capital improvements, and other lawful municipal purposes based upon the City's then-current needs and priorities; and

WHEREAS, in addition, while updating the City's public service tax provisions, the City Council desires to clarify the meaning of “water service” under the City's existing public service tax and

WHEREAS, the City has imposed a public service tax on water service since 1958, and the City's existing Code presently imposes a 10 percent public service tax on the purchase of water service; and

WHEREAS, the City provides both potable water and reclaimed water to customers through its utility system, and both are delivered, metered, and billed as utility services for beneficial use; and

WHEREAS, Section 166.231(1)(a), Florida Statutes, authorizes municipalities to levy a public service tax on the purchase of "water service" without distinguishing among water sources, treatment levels, or regulatory classifications; and

WHEREAS, Section 403.064, Florida Statutes, recognizes reclaimed water as an important component of Florida's water supply and provides for reclaimed water to be supplied, metered, and charged for as a utility commodity; and

WHEREAS, Section 170.01(1)(c), Florida Statutes, recognizes reclaimed water infrastructure, including reclaimed water mains and laterals, as part of the water and alternative water supply systems municipalities are authorized to construct, operate, and finance; and

WHEREAS, the Florida Supreme Court has recognized a reclaimed water system as "an integrated part of the whole water service system," *Pinellas County v. State*, 776 So. 2d 262 (Fla. 2001), further supporting the functional and operational relationship between reclaimed water and municipal water service; and

WHEREAS, although *Pinellas County* did not interpret Section 166.231, Florida Statutes, the City Council finds its analysis of reclaimed water as an integrated component of a municipal water service system persuasive in interpreting the term "water service" under the City's public service tax provisions; and

WHEREAS, the City Council finds and determines that reclaimed water delivered to customers through the City's utility system constitutes "water service" within the meaning of Section 166.231, Florida Statutes, and Chapter 15, Article III of the City Code; and

WHEREAS, the amendment concerning reclaimed water does not increase the City's existing public service tax rate, establish a new public service tax, or create a new category of taxable public service, but instead clarifies the meaning of the existing term "water service" under the City's existing public service tax provisions; and

WHEREAS, the City Council finds that the amendments contained in this ordinance will modernize and clarify the City's public service tax provisions, provide greater flexibility in the use of public service tax revenues, and promote consistent administration of the City's existing public service tax; now therefore

THE CITY OF BOCA RATON HEREBY ORDAINS:

Section 1. Chapter 15, "Taxation and Finance," Article III, "Public Service Tax," Division 2, "Utilities," Section 15-68, "Monthly statement and payment of tax required of seller; use of revenues," Code of Ordinances, is hereby amended to read as follows:

Sec. 15-68. Monthly statement and payment of tax required of seller; use of revenues.

(1) Every seller is hereby required to execute and file not later than the 20th day of each calendar month at the office of the chief financial officer of the city a sworn statement on a form prescribed by the chief financial officer, setting forth the amount of the excise tax to which the city is entitled under the provisions of section 15-67 on account of bills paid by purchasers during the preceding month. Contemporaneously with the filing of the statement, the seller shall pay the amount of such tax to the chief financial officer.

(2) ~~Except as specified in subsections (3) and (4), all~~ All revenues derived from the excise tax shall be deposited with the general funds of the city and used with other general funds for such purposes as may be set forth in the annual operating budget unless otherwise authorized by the city council.

~~(3) That portion of the revenues attributable to the excise tax between 6.5 and 7.5 percent, including the tax on the sale of fuel oil, shall be transferred monthly to the right-of-way~~

~~beautification capital projects fund, to be used solely for capital and operating expenses incurred in projects for the beautification of the public rights-of-way within the city and the maintenance of such beautification projects. Any revenues transferred to such fund in excess of fund expenditures in any fiscal year shall be retained and reappropriated in the fund in the next fiscal year.~~

~~(4) That portion of the revenues attributable to the excise tax between 7.5 and 8.5 percent, including the tax on the sale of fuel oil, shall be transferred monthly to the 5-year capital improvements program fund, to be used solely for the capital improvement program identified for funding in the appropriate fiscal year of the program. The 5-year capital improvement program shall be reviewed annually to ensure that projects scheduled for a particular fiscal year reflect the capital improvement program priorities of the city. Revenues transferred to the fund in excess of fund expenditures in any fiscal year shall be retained and reappropriated in the fund in the next fiscal year.~~

<u>Section 2</u>. Chapter 15, "Taxation and Finance," Article III, "Public Service Tax," Division 2, "Utilities," Section 15-66, "Definitions," Code of Ordinances, is hereby amended to add the following definition:

Sec. 15-66. Definitions.

* * *

<u>"*Water service*" shall mean any utility service involving the delivery of water, including, but not limited to, potable water and reclaimed water.</u>

* * *

<u>Section 3</u>. If any section, subsection, clause, or provision of this ordinance is held invalid, the remainder shall not be affected by such invalidity.

<u>Section 4</u>. All ordinances and resolutions or parts of ordinances and resolutions and all section and parts of sections in conflict herewith shall be and hereby are repealed.

<u>Section 5</u>. Codification of this ordinance in the Code of Ordinances is hereby authorized and directed.

PASSED AND ADOPTED by the City Council of the City of Boca Raton this _____ day of ______, 2026.

CITY OF BOCA RATON, FLORIDA

ATTEST:

____
Andy Thomson, Mayor

____
Mary Siddons, City Clerk

Approved as to form:

____
Joshua Pariente Koehler
City Attorney

COUNCIL MEMBER	YES	NO	ABSTAINED
MAYOR ANDY THOMSON			
DEPUTY MAYOR MICHELLE GRAU			
COUNCIL MEMBER YVETTE DRUCKER			
COUNCIL MEMBER JONATHAN PEARLMAN			
COUNCIL MEMBER STACY L. STIPPLE			