

**MODEL MUNICIPAL RESOLUTION/ORDINANCE FOR AN ELECTION  
NOT TO REQUIRE AND COLLECT PERMIT FEES FROM ANY  
PROVIDERS OF COMMUNICATIONS SERVICES THAT USE OR  
OCCUPY MUNICIPAL ROADS OR RIGHTS-OF-WAY FOR THE  
PROVISION OF COMMUNICATIONS SERVICES AND TO ELECT TO  
INCREASE THE LOCAL COMMUNICATIONS SERVICES TAX**

**FLORIDA LEAGUE OF CITIES**

**MAY 16, 2001**

## INTRODUCTION

This is a Model Municipal Resolution/Ordinance for an election not to require and collect permit fees from any providers of communications services that use or occupy municipal roads or rights-of-way for the provision of communications services, and for an election to increase the local communications services tax by 0.12%. Each municipality and county is required to make an election regarding permit fees under section 337.401(3)(c), Florida Statutes (2000), and notify the Department of Revenue. Current law states that the Department of Revenue must be notified of the election by certified mail postmarked on or before July 1, 2001. This date is changed in section 34, Enrolled CS/CS/SB 1878 by the 2001 Florida Legislature to July 16, 2001. A copy of section 337.401, Florida Statutes (2000), and a copy of the pertinent sections of Enrolled CS/CS/SB 1878 are attached for your review.

**AS OF THE DATE OF THE PRINTING OF THIS MODEL RESOLUTION/ORDINANCE, ENROLLED CS/CS/SB 1878 HAD NOT YET BEEN ACTED UPON BY THE GOVERNOR. WHILE IT IS UNLIKELY, THE GOVERNOR COULD VETO THIS BILL. IF THE GOVERNOR DOES VETO THE BILL, THE FLORIDA LEAGUE OF CITIES WILL DISTRIBUTE APPROPRIATE NOTICE AND RECOMMENDATIONS.**

If a municipality chooses not to require and collect permit fees, the municipality may elect to increase the total rate for the local communications services tax as computed under section 202.20(1) and (2), Florida Statutes (2000), as amended, by resolution or ordinance by an amount not to exceed a rate of 0.12%. Section 337.401(3)(c)1.b., as amended by section 34, Enrolled CS/CS/SB 1878. The bill further provides that if a municipality elects to increase its rate effective October 1, 2001, the municipality must inform the Department of Revenue of such increased rate by certified mail postmarked on or before July 16, 2001.

If your municipality elects to require and collect permit fees from any providers of communications services that use or occupy municipal roads or rights-of-way for the provision of communications services, you may still use the format of this Model Resolution/Ordinance, making the necessary substantive changes to the provisions of the Model. However, if your municipality elects to require and collect permit fees, your municipality must abide by the permit fee restrictions provided in section 337.401(3)(c)1.a., Florida Statutes (2000), including, for example, a cap of \$100 per permit. In addition, your municipality's local communications services tax rate shall be automatically decreased by 0.12% (Section 337.401(3)(c)1.a.). Thus, the determination of whether to impose permit fees is one with financial implications that should be considered by your municipality in making a decision

As noted, this Model Resolution/Ordinance is designed for a municipality that elects not to require and collect permit fees and desires to increase its rate for the local communications services tax as computed under section 202.20(1) and (2), Florida Statutes (2000), as amended, by the full amount of 0.12%. However, if your municipality chooses not to require and collect permit fees, it may choose to increase its tax rate by any amount up to 0.12% or may choose not to increase its tax rate at all. The tax increase is entirely at your municipality's option.

Note that section 35, Enrolled CS/CS/SB 1878 further amends section 337.401, Florida Statutes, effective October 1, 2001. The bill creates new paragraphs (j) and (k) of subsection 337.401(3) to state that a municipality may change its election regarding requiring and collecting permit fees on an annual basis, but certain restrictions must be followed.

**A certified copy of your municipality's Resolution or Ordinance on permit fees and any tax increase should be sent by certified mail postmarked on or before July 16, 2001 to: Revenue Accounting – Communications Services Tax, Florida Department of Revenue, Post Office Box 6609, Tallahassee, Florida 32399-6609.**

The model ordinance is available in an electronic format that may be obtained by going to the Florida League of Cities' Internet website at [www.flcities.com](http://www.flcities.com) and click on Legal Services. You may also contact Susan Harris at the Florida League of Cities at [sharris@flcities.com](mailto:sharris@flcities.com) and request that it be e-mailed to you. If you have any questions on the Model Resolution/Ordinance, please have your municipal attorney contact either John Smith or Kraig Conn at the Florida League of Cities, 800-342-8112.

**MODEL MUNICIPAL RESOLUTION/ORDINANCE FOR AN ELECTION NOT TO REQUIRE AND COLLECT PERMIT FEES FROM ANY PROVIDERS OF COMMUNICATIONS SERVICES THAT USE OR OCCUPY MUNICIPAL ROADS OR RIGHTS-OF-WAY FOR THE PROVISION OF COMMUNICATIONS SERVICES AND TO ELECT TO INCREASE THE LOCAL COMMUNICATIONS SERVICES TAX**

RESOLUTION/ORDINANCE NO. \_\_\_\_\_

**A RESOLUTION/ORDINANCE  
TO BE ENTITLED:**

A RESOLUTION/ORDINANCE OF THE (MUNICIPALITY), FLORIDA, RELATING TO REQUIRING AND COLLECTING PERMIT FEES FROM PROVIDERS OF COMMUNICATIONS SERVICES AND INCREASING THE LOCAL COMMUNICATIONS SERVICES TAX; PROVIDING FOR INTENT; PROVIDING FOR ELECTION NOT TO REQUIRE AND COLLECT PERMIT FEES; PROVIDING FOR ELECTION TO INCREASE LOCAL COMMUNICATIONS SERVICES TAX; PROVIDING FOR NOTICE TO THE DEPARTMENT OF REVENUE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, section 337.401(3)(c)1., Florida Statutes (2000), requires each municipality to make an election regarding the payment of permit fees by providers of communications services and further requires each municipality to inform the Department of Revenue of the election by certified mail by July 1, 2001; and

WHEREAS, a municipality may require and collect permit fees from any providers of communications services that use or occupy municipal roads or rights-of-way for the provision of communications services. However, to ensure competitive neutrality among providers of communications services, a municipality that elects to exercise its authority to require and collect permit fees will have an automatic reduction in the rate of the local communications services tax for the municipality, as computed under section 202.20(1) and (2), Florida Statutes (2000), as amended, by a rate of 0.12%; and

WHEREAS, alternatively a municipality may elect not to require and collect permit fees from any provider of communications services that uses or occupies municipal roads or rights-of-way for the provision of communications services. If the municipality elects not to require and collect permit fees, the total rate for the local communications services tax as computed under section 202.20(1) and (2), Florida Statutes (2000), as amended, for that municipality may be increased by ordinance by an amount not to exceed a rate of 0.12%; and



Pursuant to section 337.401(3)(c)1.b., Florida Statutes (2000), as amended by section 34, Enrolled CS/CS/SB 1878 by the 2001 Florida Legislature, the \_\_\_\_\_(Municipality)\_\_\_\_\_ elects to increase its total rate for the local communications services tax as computed under section 202.20(1) and (2), Florida Statutes (2000), as amended, by an amount of 0.12%, and this election shall take effect October 1, 2001.

SECTION 4. Notice to the Department of Revenue.

The \_\_\_\_\_(Municipality)\_\_\_\_\_ directs that notice of the above elections be provided to the Department of Revenue by certified mail by July 16, 2001, as provided in section 34, Enrolled CS/CS/SB 1878 by the 2001 Florida Legislature.

SECTION 5. Severability.

The provisions of this Resolution/Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Resolution/Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Resolution/Ordinance but shall remain in effect, it being the legislative intent that this Resolution/Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 6. Effective Date.

The effective date of this Resolution/Ordinance shall be immediately upon its passage by the \_\_\_\_\_(Municipality)\_\_\_\_\_.

Passed: \_\_\_\_\_  
Approved: \_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Clerk

Legal in form and valid if enacted:

\_\_\_\_\_  
Attorney