

**MODEL MUNICIPAL ORDINANCE TO (INCREASE OR DECREASE) THE
LOCAL COMMUNICATIONS SERVICES TAX RATE UP TO THE
MAXIMUM RATE ALLOWED FOR A MUNICIPALITY**

FLORIDA LEAGUE OF CITIES

July 3, 2002

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INTRODUCTION

This is a Model Municipal Ordinance to change the local communications services tax rate up to the maximum rate allowed for a municipality. This Model Ordinance pertains to and implements sections 202.19(1) and (2) and 202.21, Florida Statutes (2001).

IF YOUR MUNICIPALITY DECIDES NOT TO CHANGE THE CONVERSION TAX RATE FOR YOUR MUNICIPALITY AS PROVIDED IN SECTION 202.20(1)(b), FLORIDA STATUTES (2001), YOU DO NOT HAVE TO ADOPT THIS SAMPLE ORDINANCE. SECTION 202.20(1)(b), FLORIDA STATUTES (2001), PROVIDES THAT CONVERSION TAX RATES TAKE EFFECT WITHOUT ANY ACTION REQUIRED BY THE LOCAL GOVERNMENT.

ANY CHANGES TO LOCAL COMMUNICATIONS SERVICES TAX RATES MUST BE ADOPTED BY ORDINANCE BEFORE SEPTEMBER 1, 2002 AND THE FLORIDA DEPARTMENT OF REVENUE MUST BE PROPERLY NOTICED OF SUCH CHANGE BY SEPTEMBER 1, 2002. A COPY OF THE DOR FORM "LOCAL COMMUNICATIONS SERVICES TAX NOTIFICATION OF TAX RATE CHANGE" IS INCLUDED IN THIS PACKET.

Section 202.19(2)(a), Florida Statutes (2001), provides municipalities may impose a local communications services tax at a rate of up to 5.1% for municipalities that have not chosen to levy permit fees, and at a rate of up to 4.98% for municipalities that have chosen to levy permit fees. These maximum rates do not include the add-ons of up to 0.12% authorized pursuant to section 337.401, Florida Statutes, for municipalities that choose not to levy permit fees, nor do the rates supersede conversion or emergency rates authorized by section 202.20, Florida Statutes, which may be in excess of these maximum rates.

Section 202.20(1)(a), Florida Statutes (2001), sets the local communications services tax conversion rates for the period of October 1, 2001, through September 30, 2002. The conversion tax rates take effect without any action required by the local government. Section 202.20(1)(b), Florida Statutes (2001), sets the local communications services tax conversion rates beginning October 1, 2002. Again, the conversion tax rates take effect without any action required by the local government.

Section 202.19(1), Florida Statutes (2001), provides that the governing authority of each municipality, may, by ordinance, levy a discretionary communications services tax. This authority to levy the tax means that the governing authority of each municipality may also repeal or change the rate of the local communications services tax. Section 202.21, Florida Statutes (2001), provides that any repeal or change in the rate of a local communications services tax imposed under section 202.19, Florida Statutes, is effective with respect to taxable services included on bills that are dated on or after the January 1 subsequent to the repeal or change. The next effective date for any repeal or change in the tax rate is January 1, 2003. Section 202.21, Florida Statutes,

also states that a municipality repealing or changing the rate of the tax must notify the Department of Revenue of the repeal or change by September 1 immediately proceeding the next January 1. For our purposes, this would be September 1, 2002. **THEREFORE, ANY ORDINANCE TO CHANGE THE RATE OF A LOCAL COMMUNICATIONS SERVICES TAX MUST BE ADOPTED BY THE MUNICIPALITY AND THE DEPARTMENT OF REVENUE MUST BE PROPERLY NOTIFIED BY SEPTEMBER 1, 2002.** Section 202.21, Florida Statutes, also provides for the notice process and information required to be received by the Department of Revenue and a copy of the appropriate DOR form is included in this packet.

The attached Model Ordinance contemplates notice to the Department of Revenue on or before September 1, 2002.

EXAMPLE CHANGE OF A LOCAL COMMUNICATIONS SERVICES TAX RATE

If your municipality chooses to change the local communications services tax rate up to the maximum tax rate allowed, the process may be somewhat confusing. Therefore, working through an example change may provide the best direction. Also, it must be stressed that a change up to the maximum tax rate allowed does not impact your municipality's authority to further increase the tax rate by up to 0.12% if your municipality has chosen not to levy permit fees. The up to 0.12% increase if your municipality decides not to levy permit fees will be added to either your municipality's conversion tax rate as set forth in section 202.20, Florida Statutes, or added on to a changed tax rate if your municipality decides to change its conversion tax rate up to the maximum tax rate permitted for your municipality.

The City of Alachua in Alachua County is going to be used as the example municipality. Under section 202.20(1)(b), Florida Statutes (2001), beginning October 1, 2002, the City of Alachua has a conversion tax rate of 3.80% if it chooses not to levy permit fees. (If the City of Alachua chooses to levy permit fees, section 202.20(1)(b) provides a conversion rate of 3.58%.)

Under section 202.19(2)(a), Florida Statutes (2001), the City of Alachua could choose to increase its tax rate because its tax rate is less than the permitted maximum tax rate of 5.10%. Again, Alachua's conversion tax rate beginning October 1, 2002 is 3.80%.

Therefore, if the City of Alachua chooses to increase its local communications services tax rate, it could increase the rate from its conversion rate of 3.80% up to 5.10%. Also, remember that the up to 0.12% increase if a municipality decides not to levy permit fees is in addition to the tax rate. Thus, if the City of Alachua decided not to levy permit fees and has passed a resolution/ordinance to increase its tax rate by the authorized up to 0.12%, this 0.12% would be added to the authorized maximum rate of up to 5.10% for a total tax rate of up to 5.22% for the period beginning January 1, 2003.

A copy of your municipality's Ordinance on any tax rate change along with the other required information in section 202.21, Florida Statutes (2001), should be sent by certified mail to: Revenue Accounting – Communications Services Tax, Florida Department of

Revenue, Post Office Box 6609, Tallahassee, Florida 32314-6609. Use the attached DOR form to notify the DOR of any tax rate changes.

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 and click on Legal Services. You may also contact Susan Harris at the Florida League of Cities at sharris@flcities.com and request that it be e-mailed to you. If you have any questions on the Model Ordinance, please have your municipal attorney contact either John Smith or Kraig Conn at the Florida League of Cities, 800-342-8112.

MODEL MUNICIPAL ORDINANCE TO (INCREASE OR DECREASE) THE LOCAL COMMUNICATIONS SERVICES TAX RATE UP TO THE MAXIMUM RATE ALLOWED FOR A MUNICIPALITY

ORDINANCE NO. _____

AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE OF THE (MUNICIPALITY), FLORIDA RELATING TO (INCREASING OR DECREASING) THE LOCAL COMMUNICATIONS SERVICES TAX RATE; PROVIDING FOR INTENT; PROVIDING FOR (INCREASED OR DECREASED) LOCAL COMMUNICATIONS SERVICES TAX RATE; PROVIDING FOR NOTICE TO THE DEPARTMENT OF REVENUE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, during the 2000 Regular Session, the Florida Legislature passed the “Communications Services Tax Simplification Law”, creating Chapter 202, Florida Statutes (2000); and

WHEREAS, section 202.19(2), Florida Statutes (2001), states municipalities may impose a local communications services tax at a rate of up to 5.1% for municipalities that have not chosen to levy permit fees, and at a rate of up to 4.98% for municipalities that have chosen to levy permit fees. These maximum rates do not include the add-ons of up to 0.12% authorized pursuant to section 337.401, Florida Statutes, for municipalities that choose not to levy permit fees, nor do the rates supersede conversion or emergency rates authorized by section 202.20, Florida Statutes, which may be in excess of these maximum rates; and

WHEREAS, section 202.20(1)(a), Florida Statutes (2001), sets the local communications services tax conversion rates for the period of October 1, 2001, through September 30, 2002. The conversion rates take effect without any action required by the local government; and

WHEREAS, section 202.20(1)(b), Florida Statutes (2001), sets the local communications services tax conversion rates beginning October 1, 2002. The conversion rates take effect without any action required by the local government.

NOW, THEREFORE, BE IT ORDAINED BY (MUNICIPALITY), FLORIDA AS FOLLOWS:

SECTION 1. Intent.

It is the intent of the (Municipality) to (increase or decrease) its local communications services tax rate as provided in section 202.19, Florida Statutes (2001).

SECTION 2. (Increased or Decreased) Local Communications Services Tax Rate.

[Note: For municipalities that have a conversion tax rate established in section 202.20(1)(b), Florida Statutes (2001), which is lower than the maximum tax rate of 5.1% for municipalities that choose not to levy permit fees, as established in section 202.19(2)(a), Florida Statutes (2001), your municipality may want to consider increasing the tax rate up to 5.1% effective January 1, 2003.]

The local communications services tax conversion rate established under section 202.20(1)(b), Florida Statutes (2001), for the (Municipality) is (insert conversion rate as provided in section 202.20(1)(b), Florida Statutes) (2001), which is less than the maximum rate of (5.1% for municipalities that have not chosen to levy permit fees) as established in section 202.19(2)(a), Florida Statutes (2001). The local communications services tax rate for the (Municipality) is (increased or decreased) to (up to 5.1% for municipalities that have not chosen to levy permit fees). This (increased or decreased) rate is to be effective January 1, 2003.

SECTION 3. Notice to the Florida Department of Revenue.

The (Municipality) directs that notice of the (increased or decreased) local communications services tax rate be provided to the Florida Department of Revenue on the appropriate DOR form on or before September 1, 2002 and that a copy of this Ordinance accompany the form.

SECTION 4. Severability.

The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this 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 Ordinance but shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 5. Effective Date.

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

Passed: _____
Approved: _____
Mayor

Attest:

Clerk

Legal in form and valid if enacted:

Attorney



**Local Communications Services Tax
Notification of Tax Rate Change**

DR-700021
R. 12/01

Mail to:
REVENUE ACCOUNTING
COMMUNICATIONS SERVICES TAX
FLORIDA DEPARTMENT OF REVENUE
PO BOX 6609
TALLAHASSEE FL 32314-6609

THIS AREA FOR DOR USE ONLY
Received: _____
Approved: _____
By: _____
Date: _____

Name of jurisdiction	
Existing tax rate	New authorized tax rate
Effective date (new rate)	Repeal date (new rate)
Contact person for rate changes:	
Name _____	Telephone number _____
Title _____	E-mail address _____
Street/PO Box _____	City/State/ZIP _____

NOTE: A copy of the ordinance authorizing the rate change is required before such change will become effective.

Submitted by:

_____	_____
Signature	Title
_____	_____
Print name	Date

Instructions for Completing Form DR-700021

Governing authorities must use Form DR-700021 to notify the Department of tax rate changes. A copy of the ordinance authorizing the change is also required before such change will become effective.

Rate Changes

Pursuant to section 202.20(2), Florida Statutes, for the period October 1, 2001 through September 30, 2002, the governing authority may adjust the rate of the local communications services tax through an emergency ordinance or resolution for the periods ending December 31, 2001; March 31, 2002; June 30, 2002; and/or September 30, 2002. Any governing authority that adjusts its rate shall notify

the Department of the new tax rate immediately upon its adoption. The emergency ordinance or resolution shall specify the effective date for the adjusted rate, which shall be no less than 60 days after the date of adoption of the ordinance or resolution; and shall be effective with respect to taxable services included on bills that are dated on the first day of a month subsequent to the expiration of the 60-day period.

Pursuant to s. 202.21, F.S., for annual rate changes, the governing authority shall notify the Department by September 1 prior to the January 1 effective date.