

ORDINANCE NO. 2001-07

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA PERTAINING TO THE LOCAL COMMUNICATIONS SERVICES TAX RATE; PROVIDING FOR INTENT; PROVIDING FOR ELECTION NOT TO REQUIRE AND COLLECT PERMIT FEES, ESTABLISHING THE LOCAL COMMUNICATIONS SERVICES TAX RATES; PROVIDING FOR NOTICE TO THE DEPARTMENT OF REVENUE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND 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, during the 2001 Regular Session, the Florida Legislature passed and the Governor thereafter signed Enrolled CS/CS/SB 1878, that further amends Chapter 202, Florida Statutes (2000) (the "Act"); and

WHEREAS, Section 9 of the Act amends Section 202.19(2), Florida Statutes (2000), to provide that municipalities may elect a local communications services tax rate, commencing October 1, 2001, of up to 5.1% for municipalities that have not chosen to levy permit fees, and a tax rate of up to 4.98% for municipalities that have chosen to levy permit fees; and

WHEREAS, the maximum rate does not include an optional add on of up to 0.12% for municipalities that choose not to levy permit fees pursuant to section 337.401, Florida Statutes, 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 12 of the Act amends Section 202.20(1)(a), Florida Statutes (2000), to set the local communications services tax conversion rates for the period of October 1, 2001, through September 30, 2002; and

WHEREAS, Section 12 of the Act further amends section 202.20(1)(b), Florida Statutes (2000), to set the local communications services tax conversion rates beginning October 1, 2002; and

WHEREAS, Section 337.401(3)(c)1, Florida Statutes (2000), as amended by the Act, requires each municipality to make an election regarding the payment of permit fees by providers of communications services and to inform the Department of Revenue of the election by certified mail by July 16, 2001; and

WHEREAS, Section 13 of the Act provides that notwithstanding any provision of chapter 202, Florida Statutes, to the contrary, any municipality that has a local communications services tax conversion rate established under Section 202.20, Florida Statutes, which is less than the maximum rate established under Section 202.19, Florida Statutes, may by Ordinance elect to increase its rate up to the maximum rate, with such increased rate to be effective beginning October 1, 2001 and ending September 30, 2002, if notification of the increased rate is provided to the Department of Revenue by certified mail postmarked by July 16, 2001; and

WHEREAS, during the period beginning on October 1, 2001, and ending September 30, 2002, the maximum rate established under section 202.19, Florida Statutes, shall be deemed to be the sum of 5.1% plus the difference between the conversion rates set forth in paragraphs (a) and (b) of Section 202.20(1), Florida Statutes, as amended by the Act; and

WHEREAS, the Town of Miami Lakes (the "Town") was created pursuant to the Constitution of the State of Florida and the Home Rule Charter of Miami-Dade County, on December 5, 2000, and therefore, Section 202.20(1)(a) and (b), Florida Statutes

(2000), as amended, did not establish conversion rates for the Town of Miami Lakes that are higher than the maximum rate of 5.1%; and

WHEREAS, Section 337.401(3)(c)(1)(a), Florida Statutes (2000) provides substantial restrictions on permit fees that municipalities may charge communications providers, including a cap of \$100 per permit; and

WHEREAS, the Town has determined that it is in the best interests of the public and of the Town not to charge communications providers permit fees authorized by Section 337.401, Florida Statutes, (2000) effective October 1, 2001, and to benefit from the higher local communications tax rate.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. **Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

Section 2. **Permit Fees.** The Town elects not to impose permit fees on communications providers.

Section 3. **Tax Rate.** The Town adopts the local communications services tax rate as follows:

- a. For the fiscal year beginning on October 1, 2001 through September 30, 2002, the rate shall be set at 5.1%.
- b. The rate shall be increased as authorized by the Act by the amount of 0.12%.
- c. For the fiscal year beginning on October 1, 2001, through September 30, 2002, the local communications services tax rate shall be 5.22%

d. The local communications services tax rate effective October 1, 2002 shall be 5.22%.

Section 4. Distribution of Copies. The Town Clerk is directed to provide a copy of this Ordinance to the Department of Revenue by certified mail prior to the deadline of July 16, 2001.

Section 5. Repeal of Conflicting Provisions. All provisions of the Code of Miami-Dade County as made applicable to the Town by Article VIII, Section 8.3 of the Town Charter which are in conflict with this Ordinance are hereby repealed.

Section 6. 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 they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 7. Effective Date. This Ordinance shall become effective upon adoption on second reading.

The foregoing Ordinance was offered by Councilmember Collins, who moved its adoption on first reading. The motion was seconded by Thomson and upon being put to a vote, the vote was as follows:

Councilmember Mary Collins	Yes
Councilmember Robert Meador, II	Yes
Councilmember Michael Pizzi	Yes
Councilmember Nancy Simon	Yes
Councilmember Peter Thomson	Yes
Vice Mayor Roberto Alonso	Yes
Mayor Wayne Slaton	Yes

PASSED AND ADOPTED on first reading this 12th day of June, 2001.

The foregoing Ordinance was offered by Councilmember Collins, who moved its adoption on second reading. The motion was seconded by Councilmember Simon, and upon being put to a vote, the vote was as follows:

Councilmember Mary Collins	Yes
Councilmember Robert Meador, II	Yes
Councilmember Michael Pizzi	Yes
Councilmember Nancy Simon	Yes
Councilmember Peter Thomson	Yes
Vice Mayor Roberto Alonso	Yes
Mayor Wayne Slaton	Yes

PASSED AND ADOPTED on second reading this 26th day of June, 2001.



WAYNE SLATON, MAYOR

ATTEST:



BEATRIS M. ARGUELLES, TOWN CLERK

APPROVED AS TO FORM:



TOWN ATTORNEY