

RESOLUTION No. 2001-88

A RESOLUTION OF THE TOWN OF SOUTHWEST RANCHES, 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 COMPLIANCE WITH OTHER LAWS AND THE TOWN'S EXERCISE OF ITS POLICE POWER; PROVIDING FOR SEVERABILITY; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A RESERVATION OF RIGHTS; PROVIDING FOR CONFLICTS; AND PROVIDING FOR 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; 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 (2001) 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 (2001) for that municipality may be increased by an amount not to exceed a rate of 0.12%; and

WHEREAS, a municipality that does not make such an election as to whether to require and collect permit fees from any provider of communications services shall be presumed to have elected not to require and collect permit fees and such municipality will be authorized to increase its tax rate by an amount not to exceed a rate of 0.12%; and

WHEREAS, Section 35 of Enrolled CS/CS/SB 1878 by the 2001 Florida Legislature further amends Section 337.401, Florida Statutes (2000), to state that the Department of Revenue must be informed of a municipality's election to require and collect permit fees and any tax rate change resulting from such election in accordance with the notice requirements of Florida Statutes Section 202.21; and

WHEREAS, whatever election the municipality makes, such election shall take effect on January 1, 2002.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Southwest Ranches, Florida:

Section 1: Intent.

It is the intent of the Town of Southwest Ranches to clarify that it is presumed that in accordance with Section 337.401(3)(c)1., Florida Statutes (2000), as amended by Section 35 of Enrolled CS/CS/SB 1878 by the 2001 Florida Legislature, the Town of Southwest Ranches does not intend to require and collect permit fees from any providers of communications services that use or occupy its municipal roads or rights-of-way for the provision of communications services and that the Town does intend to increase the rate of its local communications services tax to reflect its intent not to require and collect permit fees from any providers of communications services that use or occupy its municipal roads or rights-of-way for the provision of communications services.

Section 2: Town of Southwest Ranches Not to Require and Collect Permit Fees.

The Town of Southwest Ranches shall not require and collect permits fees from any provider of communications services that uses or occupies municipal roads or rights-of-way for the provision of communications services. This presumption takes effect October 1, 2001.

Section 3: Election to Increase Local Communications Services Tax.

Pursuant to Section 337.401(3)(c)1.b., Florida Statutes (2000), as amended by Section 35 of Enrolled CS/CS/SB 1878 by the 2001 Florida Legislature, the Town of Southwest Ranches elects to increase its total rate for the local communications services tax as computed under Section 202.20(1) and (2), Florida Statutes (2001), by an amount of 0.12%, and this election shall take effect January 1, 2002.

Section 4: Notice to the Department of Revenue.

The Town of Southwest Ranches directs that notice of the above election be provided to the Department of Revenue by certified mail by September 1, 2001, as provided in Section 202.21, Florida Statutes (2001).

Section 5: Compliance with Other Laws; Police Power.

All providers of communications services shall at all times be subject to and shall comply with all applicable Federal, State and local laws. All providers of communications services shall at all times be subject to all lawful exercises of the police power of the Town of Southwest Ranches.

Section 6: Severability.

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

Section 7: Savings.

All fees, charges, and financial obligations previously accrued pursuant to applicable Federal, State and local laws shall continue to be due and owing until paid.

Section 8: Reservation of Rights.

Both the Town of Southwest Ranches and providers of communications services reserve and may seek any and all remedies available at law or equity. Neither the Town of Southwest Ranches nor any provider of communications services shall be deemed to have waived any rights or remedies at law or equity. The Town of Southwest Ranches reserves the right to amend this Resolution as it shall find necessary in the lawful exercise of its police powers. The Town of Southwest Ranches reserves its rights to change its elections concerning the collection of permit fees made pursuant to this Resolution. The Town of Southwest Ranches reserves its rights to change its elections concerning the local communications services tax rate made pursuant to this Resolution. Any change of election pursuant to this Resolution and any tax rate change resulting from such change of election shall be subject to the notice requirements of Section 202.21, Florida Statutes (2001).

Section 9: Conflicts.

Any ordinances, or parts of ordinances, and resolutions, or parts of resolutions, in conflict herewith are hereby repealed to the extent of such conflict.

Section 10: Effective Date.

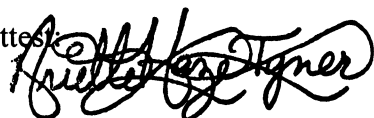
This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED by the Town Council of the Town of Southwest Ranches, Florida, this 13th day of September, 2001.



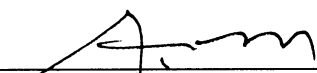
Mecca Fink, Mayor

Attest:



Arielle Haze Tyner, Town Clerk

Approved as to Form and Correctness:



Gary A. Poliakoff, J.D., Town Attorney