

ORDINANCE NO. 03- 06

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, 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 CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Section 8.08 of the City Charter (the "Charter"), the Mayor and City Council passed and adopted Ordinance No. 03-03 as an emergency ordinance (the "Transitional Ordinance"), copy of the Transitional Ordinance is attached to this Ordinance ; and

**WHEREAS**, Section 4.04 of the Charter provides that emergency ordinances shall automatically be repealed as of the 61<sup>st</sup> day following its effective date subject to re-enactment of the Ordinance under regular procedures; and

**WHEREAS**, the City Council wishes to re-enact and re-adopt the Transitional Ordinance as provided for by law; and

**WHEREAS**, section 202.19, Florida Statutes (2002), authorizes municipalities to 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; 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**, 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 (2002), 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 (2002), as amended, for that municipality may be increased by ordinance by an amount not to exceed a rate of 0.12%.

**WHEREAS**, the City of Doral (the "City") was created pursuant to the Constitution of the State of Florida and the Home Rule Charter of Miami-Dade County, on June 24, 2003, and therefore, Section 202.20(1)(a) and (b), Florida Statutes (2002), as amended, did not establish conversion rates for the City that are higher than the maximum rate of 5.1%; and

**WHEREAS**, Section 337.401(3)(c)(1)(a), Florida Statutes (2002) provides substantial restrictions on permit fees that municipalities may charge communications providers, including a cap of \$100 per permit; and

**WHEREAS**, the City has determined that it is in the best interests of the public and of the City not to charge communications providers permit fees authorized by Section 337.401, Florida Statutes, (2002) effective October 1, 2001, and to benefit from the higher local communications tax rate.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, 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 City elects 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, as provided in Section 337.401(3)(c)1., Florida Statutes (2002).

**Section 3. Local Communications Services Tax Rate.** The City adopts the local communications tax rate as follows:

- a. The tax rate shall be set at 5.1% and this tax rate shall take effect on January 1, 2004.
- b. Pursuant to Section 337.401(3)(c)1.b, Florida Statutes (2002), the City elects to increase its total rate for the local communications services tax by an amount of 0.12%, and this election shall take effect January 1, 2004.
- c. The total local communications services tax rate shall be 5.22%.
- d. The local communications service tax rate shall be effective January 1, 2004.

**Section 4. Notice to the Department of Revenue.** The City Manager is directed to file the appropriate report(s) with the Department of Revenue and the City

Clerk is directed to provide a copy of this Ordinance to the Department of Revenue by certified mail postmarked on or before September 1, 2003, as provided in Section 202.21, Florida Statutes (2002).

**Section 5. Repeal of Conflicting Provisions.** All provisions of the Code of Miami-Dade County as made applicable to the City by Section 8.03 of the City 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 be effective immediately upon adoption.

The foregoing Ordinance was offered by Councilmember Van Name, who moved its adoption. The motion was seconded by Di Pietro and upon being put to a vote, the vote was as follows:


Mayor Juan Carlos Bermudez  
Councilmember Pedro Cabrera  
Councilmember Michael DiPrieto  
Councilmember Sandra Ruiz  
Councilmember Robert Van Name

Yes  
Yes  
Yes  
Yes  
Yes

First Reading September 10, 2003

PASSED AND ADOPTED on Second Reading this 8<sup>th</sup> day of October,

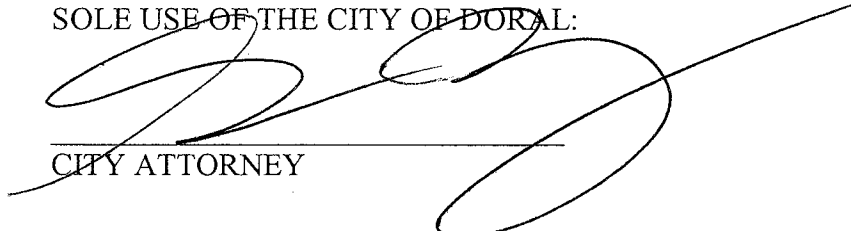
2003.

  
\_\_\_\_\_  
JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:

  
\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY FOR THE  
SOLE USE OF THE CITY OF DORAL:

  
\_\_\_\_\_  
CITY ATTORNEY