

ORDINANCE NO. 2003 16

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, RELATING TO REQUIRING AND COLLECTING PERMIT FEES FROM PROVIDERS OF COMMUNICATION 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 THE RE-AFFIRMATION OF EMERGENCY ORDINANCE NO 2003-03; PROVIDING FOR SEVERABILITY; 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 by a certain date; and

WHEREAS, a municipality may require and collect permit fees from any providers of communications services that use or occupy municipal roads or right-of-ways for the provision of communications services. However, to ensure competitive neutrality among providers of communication services, a municipality that elects to exercise its authority to require an 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, it is the intent of the City to exercise its authority to adjust its new local Communications Services Tax upward by 0.12% in lieu of requiring and collecting permit fees from any providers of communications services; and

WHEREAS, whatever election the municipality makes, such election shall take effect in accordance with state law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

Section 1. Intent. It is the intent of the City Council of the City of Miami Gardens to make an election under section 337.401 (3) (c) 1., Florida Statutes (2000), as amended, regarding the City of Miami Gardens decision on whether to require and collect permit fees from any providers of communications services that use or occupy municipal roads or right-of- ways for the provision of communication services.

Section 2. Election Not to Require and Collect Permit Fees. The City of Miami Gardens elects not to require and collect permit fees from any provider of communications that uses or occupies municipal roads or right-of-ways for the provision of communication services as provided in section 337.401 (3) (c) 1.

Section 3. Election to Increase Local Communications Services Tax. Pursuant to section 337.401 (3) (c) 1., Florida Statutes (2000), as amended, the City of Miami Gardens 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 in accordance with state law.

Section 4. Notice to the Department of Revenue. The City of Miami Gardens direct that notice of the above election be provided to the Department of Revenue. By virtue of the enactment of this ordinance, the City hereby notifies the Department of Revenue of its election to require an adjustment of the Local Communications Services Tax in lieu of collecting fees.

Section 5. Declaration. The City hereby declares that this adjustment shall remain in effect until and unless otherwise expressly repealed by the City, irrespective of whether the City, in its discretion, maintains a Local communications Services Tax rate under section 202.20 (1) (a) and (1) (b) or section 202.19 (2) (a), Florida Statutes (2001).

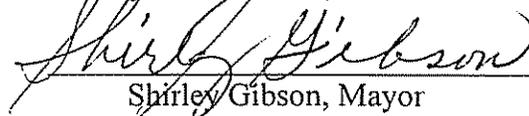
Section 6. Re-affirming Emergency Ordinance. By virtue of the enactment of this ordinance, the City of Miami Gardens reaffirms its intention not to collect permit fees as set forth in Emergency Ordinance No 2003-03. -is hereby re-adopted.

Section 7. 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 phrased of this Ordinance but shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

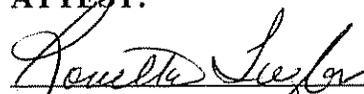
Section 8. Effective Date. This ordinance shall be effective ten (10) days after adoption on second reading.

PASSED on first reading the 5th day of November, 2003

PASSED AND ADOPTED on second reading this 19th day of November, 2003.

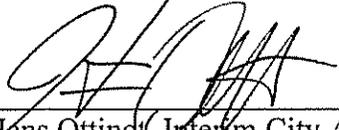

Shirley Gibson, Mayor

ATTEST:



Ronetta Taylor, CMC
City Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**



Hans Ottind, Interim City Attorney

Motion on second reading by: ~~Councilman Braynon~~

Second on second reading by: Councilman Bratton

VOTE: 6-1

Mayor Shirley Gibson	<u> x </u> (Yes)	_____ (No)
Vice Mayor Aaron Campbell	<u> x </u> (Yes)	_____ (No)
Councilman Melvin L. Bratton	<u> x </u> (Yes)	_____ (No)
Councilman Oscar Braynon II	<u> x </u> (Yes)	_____ (No)
Councilwoman Audrey King	<u> x </u> (Yes)	_____ (No)
Councilwoman Sharon Pritchett	_____ (Yes)	<u> x </u> (No)
Councilwoman Barbara Watson	<u> x </u> (Yes)	_____ (No)