

ORDINANCE NO. C-15-

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING THE CITY OF FORT LAUDERDALE CODE OF ORDINANCES, CHAPTER 15, "BUSINESS TAX RECEIPTS AND MISCELLANEOUS BUSINESS REGULATIONS," ARTICLE III, "OTHER TAXES," DIVISION 4, "UTILITY TAX," BY CREATING A NEW SECTION 15-128.1, "PASS-THROUGH PROVIDER AND COMMUNICATIONS FACILITY PROVIDER FEES AND CHARGES"; PROVIDING DEFINITIONS; IMPOSING CHARGES AND FEES ON PASS-THROUGH PROVIDERS AND COMMUNICATIONS FACILITIES IN ACCORDANCE WITH SECTION 337.401 (6), FLORIDA STATUTES, AS SAME MAY BE AMENDED FROM TIME TO TIME; IMPOSING PENALTIES FOR LATE PAYMENT; PROVIDING FOR REFUND OF EXCESS AMOUNTS PAID TO THE CITY OF FORT LAUDERDALE; PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING ORDINANCE PROVISIONS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 337.401 (6), Florida Statutes (2014) provides that a municipality that levies a tax pursuant to Chapter 202, Florida Statutes, may charge a pass-through provider that places or maintains a communications facility in the municipality's roads or rights-of-way an annual amount not to exceed \$500.00 per lineal mile or portion thereof;

WHEREAS, the City of Fort Lauderdale levies a tax pursuant to Chapter 202, Florida Statutes;

WHEREAS, it is deemed to be in the best interests of the City to amend its Code of Ordinances by creating a new Code Section 15-128.1 as set forth below;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That Chapter 15 of the Code of Ordinances of the City of Fort Lauderdale, entitled "Business Tax Receipts and Miscellaneous Business Regulations", Article III, entitled

"Other Taxes," Division 4, entitled "Utility Tax" be amended to create a new Section 15-128.1 entitled "Pass-Through Provider and Communications Facility Provider Fees and Charges" to read as follows:

Sec. 15-128.1. Pass-Through Provider and Communications Facility Provider Fees and Charges.

(a) Definitions. As used herein, unless otherwise defined or required by the context, the following words or phrases shall have the meanings indicated below:

City's roads or rights-of-way shall mean public roads or rights-of-way within the jurisdictional boundaries of the City of Fort Lauderdale, but do not include roads or rights-of-way that extend in or through the City but are state, county or another authority's roads or rights-of-way.

Communications Facility means a facility that may be used to provide communications services. Multiple cables, conduits, strands, or fibers located within the same conduit shall be considered one Communications Facility for the purposes of this section.

Pass-Through Provider means any person who places or maintains a Communications Facility in the public rights-of-way of the City of Fort Lauderdale who does not remit taxes imposed by the City pursuant to Chapter 202, Florida Statutes, as same may be amended from time to time.

(b) Pass-Through Providers and Communication Facility Providers that maintain one or more Communications Facilities in the City's roads or rights-of-way, shall pay the City the maximum annual amount allowed under Section 337.401 (6), Florida Statutes, as same may be amended from time to time. For purposes of calculating payments hereunder, each separate pole or tower installed or maintained by a Pass-Through Provider or Communications Facility Provider for the purposes of supporting antennas or other over-the-air radio transmission or reception equipment in the public rights-of-way shall comprise a separate communications facility subject to assessment of a separate fee in the annual amount of \$500.00 per linear mile or portion thereof. The amounts charged pursuant to this section shall be based on the linear miles of City roads or rights-of-way where a Communications Facility is placed, not based on a summation of the lengths of individual cables, conduits, strands or fibers.

(1) The amounts referenced in this section may be charged only once annually and only to one person annually for any Communications Facility. The City shall discontinue charging such amounts to a person that has ceased to be a Pass-Through Provider. Any annual amounts charged shall be reduced to a prorated portion of any 12-month period during which the person remits taxes imposed by the City pursuant to Chapter 202, Florida Statutes, as same may be amended from time to time. Any excess amounts paid to the City shall be refunded to the person upon written notice of the excess to the City.

(c) The annual amount referenced in Section 15-128.1(b), above, shall be due and payable of October 1 of every year. Fees not paid within ten (10) days after the due date shall bear interest at the rate of one-percent (1%) per month from the date due until paid. The acceptance of payment required hereunder by the City shall not be construed as an acknowledgement that the amount paid is the correct amount due, nor shall such acceptance be construed as a release of any claim which the City may have for additional sums due and payable or authorization to install any facilities in the City's rights-of-way.

(d) The charges under this section do not apply to Communications Facilities placed in the City's rights-of-way prior to the effective date of this section with permission from the City.

(e) The charges authorized in this section shall not be applied with respect to any Communications Facility that is used exclusively for the internal communications of an electric utility or other person in the business of transmitting or distributing electric energy.

SECTION 2. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 3. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

SECTION 4. That this Ordinance shall be in full force upon final passage.

PASSED FIRST READING this ___ day of _____, 2015.

PASSED SECOND READING this ___ day of _____, 2015.

Mayor
JOHN P. "JACK" SEILER

ATTEST:

City Clerk
JONDA K. JOSEPH

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