

SEP 25 2001 *gg/BS*

RESOLUTION  
*of the*  
ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS  
*relating to*  
RIGHT- OF- WAY UTILIZATION PERMIT FEES

Resolution No. 2001-M-40

WHEREAS, the Board of County Commissioners has previously enacted right-of-way utilization regulations contained in Article VI of Chapter 21 of the Orange County Code; and

WHEREAS, Section 21-200 of the Orange County provides that fees for right-of-way utilization permits shall be set by the Board of County Commissioners; and

WHEREAS, as part of the Communications Services Tax Simplification Law, Chapter 2000-260, as amended by Chapter 2001-260 (the "Communications Services Tax Simplification Act"), the Florida Legislature allows counties to elect to levy permit fees against communications services providers that use or occupy county rights-of way but limits such fees to \$100; and

WHEREAS, by Resolution No. 2001-M-25 adopted on June 26, 2001 the Board of County Commissioners made an election to continue to charge permit fees to communications services providers that use or occupy County rights-of-way; and

WHEREAS, the Communications Services Tax Simplification Act further provides that except for the limitations on permit fees for communications services providers, counties retain all existing authority to require and collect permit fees from users or occupants of county rights-of-way and to set appropriate permit fee amounts for such occupants; and

WHEREAS, the Legislature further provided that if a county imposes any amount on a person or entity other than a provider of communications services in connection with the placement or maintenance of a communication facility in county rights-of-way, and had not previously imposed any amount in such context as of the date the Communications Services Tax Simplification Act became a law, any amount imposed thereafter shall not be less than \$500 per linear mile, payable annually, of any cable, fiber optic, or other pathway that makes physical use of the county rights-of-way and that any excess over \$500 must be applied in a nondiscriminatory manner and must not exceed the sum of: costs directly related to the inconvenience or impairment solely caused by the disturbance to the right-of-way; the reasonable cost of the regulatory activity of the county; and the proportionate share of cost of land for such public way attributable to utilization of the right-of-way by a person or entity other than a provider of communications services; and

WHEREAS, consistent with the Communications Services Tax Simplifications Act, Resolution No. 2001-M-25 and the Orange County Code, the board now desires to set fees for right-of-way utilization for: 1) placing or maintaining communications facilities in County rights-of-way by communications services providers, 2) placing or maintaining communications facilities in County rights-of-way by persons or entities other than communications services providers and 3) all other users or occupants of County rights-of-way.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA AS FOLLOWS:**

**Section 1. Fee Schedule.** The Board of County Commissioners hereby revises the fee schedule for utilization of County rights-of-way as follows:

a. The permit fee for the placement of communications facilities in County rights-of-way by providers of "communications services", as such term is defined in Section 337.401, Florida Statutes and Chapter 202, Florida Statutes, shall be \$100.

b. The permit fee for the placement of communications facilities in County rights-of-way by persons or entities other than providers of "communications services", as defined above, shall be \$500 per linear mile, payable annually, for any cable, fiber optic, or other pathway that makes physical use of the County rights-of-way plus the costs directly related to the inconvenience or impairment solely caused by the disturbance to such right-of-way and the actual cost of the regulatory activity of the County in inspecting and monitoring such placement and maintenance.

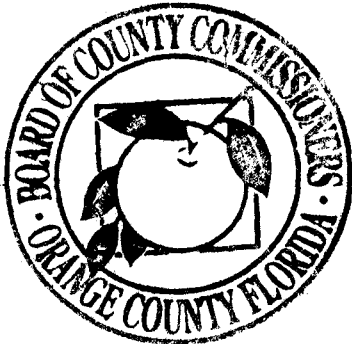
c. The permit fees for all other users of county rights-of-way shall be in accordance with the most recent fee schedule approved by the board of county commissioners.

**Section 2. Date of Implementation of New Fee Schedule.** All fees set forth in this Resolution shall be effective on October 1, 2001.

**Section 3. Severability.** If any provision of this resolution or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this resolution which can be given effect without the invalid provision or application and to this end the provisions of this resolution are declared severable.

**Section 4. Effective Date.** This resolution shall take effect immediately.

ADOPTED THIS 25<sup>th</sup> DAY OF September 2001.



ORANGE COUNTY, FLORIDA  
By: Board of County Commissioners

BY: Richard T. Crotty  
Richard T. Crotty  
County Chairman

ATTEST: Martha O. Haynie, County Comptroller  
As Clerk to the Board of County Commissioners

BY: Martha O. Haynie  
Deputy Clerk