

CHAPTER 166

MUNICIPALITIES

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PART I

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166.011 Short title.—This chapter shall be known and may be cited as the “Municipal Home Rule Powers Act.”

History.—s. 1, ch. 73-129.

166.021 Powers.—

(1) As provided in s. 2(b), Art. VIII of the State Constitution, municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law.

(2) “Municipal purpose” means any activity or power which may be exercised by the state or its political subdivisions.

(3) The Legislature recognizes that pursuant to the grant of power set forth in s. 2(b), Art. VIII of the State Constitution, the legislative body of each municipality has the power to enact legislation concerning any subject matter upon which the state Legislature may act, except:

(a) The subjects of annexation, merger, and exercise of extraterritorial power, which require general or special law pursuant to s. 2(c), Art. VIII of the State Constitution;

(b) Any subject expressly prohibited by the constitution;

(c) Any subject expressly preempted to state or county government by the constitution or by general law; and

(d) Any subject preempted to a county pursuant to a county charter adopted under the authority of ss. 1(g), 3, and 6(e), Art. VIII of the State Constitution.

(4) The provisions of this section shall be so construed as to secure for municipalities the broad exercise of home rule powers granted by the constitution. It is the further intent of the Legislature to extend to municipalities the exercise of powers for municipal governmental, corporate, or proprietary purposes not expressly prohibited by the constitution, general or special law, or county charter and to remove any limitations, judicially imposed or otherwise, on the exercise of home rule powers other than those so expressly prohibited. However, nothing in this act shall be construed to permit any changes in a special law or

municipal charter which affect the exercise of extra-territorial powers or which affect an area which includes lands within and without a municipality or any changes in a special law or municipal charter which affect the creation or existence of a municipality, the terms of elected officers and the manner of their election except for the selection of election dates and qualifying periods for candidates and for changes in terms of office necessitated by such changes in election dates, the distribution of powers among elected officers, matters prescribed by the charter relating to appointive boards, any change in the form of government, or any rights of municipal employees, without approval by referendum of the electors as provided in s. 166.031. Any other limitation of power upon any municipality contained in any municipal charter enacted or adopted prior to July 1, 1973, is hereby nullified and repealed.

(5) All existing special acts pertaining exclusively to the power or jurisdiction of a particular municipality except as otherwise provided in subsection (4) shall become an ordinance of that municipality on the effective date of this act, subject to modification or repeal as other ordinances.

(6) The governing body of a municipality may require that any person within the municipality demonstrate the existence of some arrangement or contract by which such person will dispose of solid waste in a manner consistent with the ordinances of the county or municipality or state or federal law. For any person who will produce special wastes or biomedical waste, as the same may be defined by state or federal law or county or city ordinance, the municipality may require satisfactory proof of a contract or similar arrangement by which special or biomedical wastes will be collected by a qualified and duly licensed collector and disposed of in accordance with the laws of Florida or the Federal Government.

(7) Entities that are funded wholly or in part by the municipality, at the discretion of the municipality, may be required by the municipality to conduct a performance audit paid for by the municipality. An entity shall not be considered as funded by the municipality by virtue of the fact that such entity utilizes the municipality to collect taxes, assessments, fees, or other revenue. If an independent special district receives municipal funds pursuant to a contract or interlocal agreement for the purposes of funding, in whole or in part, a discrete program of the district, only that program may be required by the municipality to undergo a performance audit.

(8)(a) The Legislature finds and declares that this state faces increasing competition from other states and other countries for the location and retention of private enterprises within its borders. Furthermore, the Legislature finds that there is a need to enhance and expand economic activity in the municipalities of this state by attracting and retaining manufacturing development, business enterprise management, and other activities conducive to economic promotion, in order to provide a stronger, more balanced, and stable economy in the state, to enhance and preserve purchasing power and employment opportunities for the residents of this state, and to improve the welfare and competitive position of

the state. The Legislature declares that it is necessary and in the public interest to facilitate the growth and creation of business enterprises in the municipalities of the state.

(b) The governing body of a municipality may expend public funds to attract and retain business enterprises, and the use of public funds toward the achievement of such economic development goals constitutes a public purpose. The provisions of this chapter which confer powers and duties on the governing body of a municipality, including any powers not specifically prohibited by law which can be exercised by the governing body of a municipality, shall be liberally construed in order to effectively carry out the purposes of this subsection.

(c) For the purposes of this subsection, it constitutes a public purpose to expend public funds for economic development activities, including, but not limited to, developing or improving local infrastructure, issuing bonds to finance or refinance the cost of capital projects for industrial or manufacturing plants, leasing or conveying real property, and making grants to private enterprises for the expansion of businesses existing in the community or the attraction of new businesses to the community.

(d) A contract between the governing body of a municipality or other entity engaged in economic development activities on behalf of the municipality and an economic development agency must require the agency or entity receiving municipal funds to submit a report to the governing body of the municipality detailing how the municipal funds are spent and detailing the results of the economic development agency's or entity's efforts on behalf of the municipality. By January 15, 2011, and annually thereafter, the municipality shall file a copy of the report with the Office of Economic and Demographic Research and post a copy of the report on the municipality's website.

(e)1. By January 15, 2011, and annually thereafter, each municipality having annual revenues or expenditures greater than \$250,000 shall report to the Office of Economic and Demographic Research the economic development incentives in excess of \$25,000 given to any business during the municipality's previous fiscal year. The Office of Economic and Demographic Research shall compile the information from the municipalities into a report and provide the report to the President of the Senate, the Speaker of the House of Representatives, and the Department of Economic Opportunity. Economic development incentives include:

a. Direct financial incentives of monetary assistance provided to a business from the municipality or through an organization authorized by the municipality. Such incentives include, but are not limited to, grants, loans, equity investments, loan insurance and guarantees, and training subsidies.

b. Indirect incentives in the form of grants and loans provided to businesses and community organizations that provide support to businesses or promote business investment or development.

c. Fee-based or tax-based incentives, including, but not limited to, credits, refunds, exemptions, and property tax abatement or assessment reductions.

d. Below-market rate leases or deeds for real property.

2. A municipality shall report its economic development incentives in the format specified by the Office of Economic and Demographic Research.

3. The Office of Economic and Demographic Research shall compile the economic development incentives provided by each municipality in a manner that shows the total of each class of economic development incentives provided by each municipality and all municipalities.

(f) This subsection does not limit the home rule powers granted by the State Constitution to municipalities.

(9)(a) As used in this subsection, the term:

1. "Authorized person" means a person:

a. Other than an officer or employee, as defined in this paragraph, whether elected or commissioned or not, who is authorized by a municipality or agency thereof to incur travel expenses in the performance of official duties;

b. Who is called upon by a municipality or agency thereof to contribute time and services as consultant or advisor; or

c. Who is a candidate for an executive or professional position with a municipality or agency thereof.

2. "Employee" means an individual, whether commissioned or not, other than an officer or authorized person as defined in this paragraph, who is filling a regular or full-time authorized position and is responsible to a municipality or agency thereof.

3. "Officer" means an individual who, in the performance of his or her official duties, is vested by law with sovereign powers of government and who is either elected by the people, or commissioned by the Governor and who has jurisdiction extending throughout the municipality, or any person lawfully serving instead of either of the foregoing two classes of individuals as initial designee or successor.

4. "Traveler" means an officer, employee, or authorized person, when performing travel authorized by a municipality or agency thereof.

(b) Notwithstanding s. 112.061, the governing body of a municipality or an agency thereof may provide for a per diem and travel expense policy for its travelers which varies from the provisions of s. 112.061. Any such policy provided by a municipality or an agency thereof on January 1, 2003, shall be valid and in effect for that municipality or agency thereof until otherwise amended. A municipality or agency thereof that provides any per diem and travel expense policy pursuant to this subsection shall be deemed to be exempt from all provisions of s. 112.061. A municipality or agency thereof that does not provide a per diem and travel expense policy pursuant to this subsection remains subject to all provisions of s. 112.061.

(c) Travel claims submitted by a traveler in a municipality or agency thereof which is exempted from the provisions of s. 112.061, pursuant to paragraph (b), shall not be required to be sworn to before a notary public or other officer authorized to administer oaths, but any claim authorized or required to be made under any per diem and travel expense policy of a municipality

or agency thereof must contain a statement that the expenses were actually incurred by the traveler as necessary travel expenses in the performance of official duties and shall be verified by a written declaration that it is true and correct as to every material matter; and any person who willfully makes and subscribes any such claim that he or she does not believe to be true and correct as to every material matter, or who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation of such a claim that is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such claim, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Whoever receives an allowance or reimbursement by means of a false claim is civilly liable in the amount of the overpayment for the reimbursement of the public fund from which the claim was paid.

History.—s. 1, ch. 73-129; s. 1, ch. 77-174; s. 2, ch. 90-332; s. 2, ch. 92-90; s. 2, ch. 93-207; s. 2, ch. 94-332; s. 1, ch. 95-178; s. 1, ch. 98-37; s. 1, ch. 2003-125; s. 2, ch. 2010-147; s. 22, ch. 2011-34; s. 60, ch. 2011-142; s. 3, ch. 2011-143.

166.0213 Governing body meetings.—

(1) The governing body of a municipality having a population of 500 or fewer residents may hold meetings within 5 miles of the exterior jurisdictional boundary of the municipality at such time and place as may be prescribed by ordinance or resolution.

(2) The governing body of a municipality may hold joint meetings to receive, discuss, and act upon matters of mutual interest with the governing body of the county within which the municipality is located or the governing body of another municipality at such time and place as shall be prescribed by ordinance or resolution.

History.—s. 1, ch. 2011-147; s. 1, ch. 2014-14.

166.031 Charter amendments.—

(1) The governing body of a municipality may, by ordinance, or the electors of a municipality may, by petition signed by 10 percent of the registered electors as of the last preceding municipal general election, submit to the electors of said municipality a proposed amendment to its charter, which amendment may be to any part or to all of said charter except that part describing the boundaries of such municipality. The governing body of the municipality shall place the proposed amendment contained in the ordinance or petition to a vote of the electors at the next general election held within the municipality or at a special election called for such purpose.

(2) Upon adoption of an amendment to the charter of a municipality by a majority of the electors voting in a referendum upon such amendment, the governing body of said municipality shall have the amendment incorporated into the charter and shall file the revised charter with the Department of State. All such amendments are effective on the date specified therein or as otherwise provided in the charter.

(3) A municipality may amend its charter pursuant to this section notwithstanding any charter provisions to the contrary. This section shall be supplemental to the provisions of all other laws relating to the amendment of municipal charters and is not intended to diminish any

substantive or procedural power vested in any municipality by present law. A municipality may, by ordinance and without referendum, redefine its boundaries to include only those lands previously annexed and shall file said redefinition with the Department of State pursuant to the provisions of subsection (2).

(4) There shall be no restrictions by the municipality on any employee's or employee group's political activity, while not working, in any referendum changing employee rights.

(5) A municipality may, by unanimous vote of the governing body, abolish municipal departments provided for in the municipal charter and amend provisions or language out of the charter which has been judicially construed, either by judgment or by binding legal precedent from a decision of a court of last resort, to be contrary to either the State Constitution or Federal Constitution.

(6) Each municipality shall, by ordinance or charter provision, provide procedures for filling a vacancy in office caused by death, resignation, or removal from office. Such ordinance or charter provision shall also provide procedures for filling a vacancy in candidacy caused by death, withdrawal, or removal from the ballot of a qualified candidate following the end of the qualifying period which leaves fewer than two candidates for an office.

History.—s. 1, ch. 73-129; s. 1, ch. 86-95; s. 1, ch. 90-106; s. 43, ch. 90-315; s. 45, ch. 94-136.

166.032 Electors.—Any person who is a resident of a municipality, who has qualified as an elector of this state, and who registers in the manner prescribed by general law and ordinance of the municipality shall be a qualified elector of the municipality.

History.—s. 1, ch. 73-129.

166.033 Development permits.—

(1) When reviewing an application for a development permit that is certified by a professional listed in s. 403.0877, a municipality may not request additional information from the applicant more than three times, unless the applicant waives the limitation in writing. Before a third request for additional information, the applicant must be offered a meeting to attempt to resolve outstanding issues. Except as provided in subsection (4), if the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the municipality, at the applicant's request, shall proceed to process the application for approval or denial.

(2) When a municipality denies an application for a development permit, the municipality shall give written notice to the applicant. The notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit.

(3) As used in this section, the term "development permit" has the same meaning as in s. 163.3164, but does not include building permits.

(4) For any development permit application filed with the municipality after July 1, 2012, a municipality may not require as a condition of processing or issuing a development permit that an applicant obtain a permit or

approval from any state or federal agency unless the agency has issued a final agency action that denies the federal or state permit before the municipal action on the local development permit.

(5) Issuance of a development permit by a municipality does not in any way create any right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the municipality for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. A municipality shall attach such a disclaimer to the issuance of development permits and shall include a permit condition that all other applicable state or federal permits be obtained before commencement of the development.

(6) This section does not prohibit a municipality from providing information to an applicant regarding what other state or federal permits may apply.

History.—s. 2, ch. 2006-88; s. 3, ch. 2012-205; s. 3, ch. 2013-92; s. 3, ch. 2013-193; s. 2, ch. 2013-213.

166.041 Procedures for adoption of ordinances and resolutions.—

(1) As used in this section, the following words and terms shall have the following meanings unless some other meaning is plainly indicated:

(a) "Ordinance" means an official legislative action of a governing body, which action is a regulation of a general and permanent nature and enforceable as a local law.

(b) "Resolution" means an expression of a governing body concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the governing body.

(2) Each ordinance or resolution shall be introduced in writing and shall embrace but one subject and matters properly connected therewith. The subject shall be clearly stated in the title. No ordinance shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended act or section or subsection or paragraph of a section or subsection.

(3)(a) Except as provided in paragraph (c), a proposed ordinance may be read by title, or in full, on at least 2 separate days and shall, at least 10 days prior to adoption, be noticed once in a newspaper of general circulation in the municipality. The notice of proposed enactment shall state the date, time, and place of the meeting; the title or titles of proposed ordinances; and the place or places within the municipality where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

(b) The governing body of a municipality may, by a two-thirds vote, enact an emergency ordinance without complying with the requirements of paragraph (a) of this subsection. However, no emergency ordinance or resolution shall be enacted which establishes or amends the actual zoning map designation of a parcel or parcels of land or that changes the actual list of

permitted, conditional, or prohibited uses within a zoning category. Emergency enactment procedures for land use plans adopted pursuant to part II of chapter 163 shall be pursuant to that part.

(c) Ordinances initiated by other than the municipality that change the actual zoning map designation of a parcel or parcels of land shall be enacted pursuant to paragraph (a). Ordinances that change the actual list of permitted, conditional, or prohibited uses within a zoning category, or ordinances initiated by the municipality that change the actual zoning map designation of a parcel or parcels of land shall be enacted pursuant to the following procedure:

1. In cases in which the proposed ordinance changes the actual zoning map designation for a parcel or parcels of land involving less than 10 contiguous acres, the governing body shall direct the clerk of the governing body to notify by mail each real property owner whose land the municipality will redesignate by enactment of the ordinance and whose address is known by reference to the latest ad valorem tax records. The notice shall state the substance of the proposed ordinance as it affects that property owner and shall set a time and place for one or more public hearings on such ordinance. Such notice shall be given at least 30 days prior to the date set for the public hearing, and a copy of the notice shall be kept available for public inspection during the regular business hours of the office of the clerk of the governing body. The governing body shall hold a public hearing on the proposed ordinance and may, upon the conclusion of the hearing, immediately adopt the ordinance.

2. In cases in which the proposed ordinance changes the actual list of permitted, conditional, or prohibited uses within a zoning category, or changes the actual zoning map designation of a parcel or parcels of land involving 10 contiguous acres or more, the governing body shall provide for public notice and hearings as follows:

a. The local governing body shall hold two advertised public hearings on the proposed ordinance. At least one hearing shall be held after 5 p.m. on a weekday, unless the local governing body, by a majority plus one vote, elects to conduct that hearing at another time of day. The first public hearing shall be held at least 7 days after the day that the first advertisement is published. The second hearing shall be held at least 10 days after the first hearing and shall be advertised at least 5 days prior to the public hearing.

b. The required advertisements shall be no less than 2 columns wide by 10 inches long in a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be placed in a newspaper of general paid circulation in the municipality and of general interest and readership in the municipality, not one of limited subject matter, pursuant to chapter 50. It is the legislative intent that, whenever possible, the advertisement appear in a newspaper that is published at least 5 days a week unless the only newspaper in the

municipality is published less than 5 days a week. The advertisement shall be in substantially the following form:

NOTICE OF (TYPE OF) CHANGE

The (name of local governmental unit) proposes to adopt the following ordinance: (title of the ordinance).

A public hearing on the ordinance will be held on (date and time) at (meeting place).

Except for amendments which change the actual list of permitted, conditional, or prohibited uses within a zoning category, the advertisement shall contain a geographic location map which clearly indicates the area covered by the proposed ordinance. The map shall include major street names as a means of identification of the general area. In addition to being published in the newspaper, the map must be part of the online notice required pursuant to s. 50.0211.

c. In lieu of publishing the advertisement set out in this paragraph, the municipality may mail a notice to each person owning real property within the area covered by the ordinance. Such notice shall clearly explain the proposed ordinance and shall notify the person of the time, place, and location of any public hearing on the proposed ordinance.

(4) A majority of the members of the governing body shall constitute a quorum. An affirmative vote of a majority of a quorum present is necessary to enact any ordinance or adopt any resolution; except that two-thirds of the membership of the board is required to enact an emergency ordinance. On final passage, the vote of each member of the governing body voting shall be entered on the official record of the meeting. All ordinances or resolutions passed by the governing body shall become effective 10 days after passage or as otherwise provided therein.

(5) Every ordinance or resolution shall, upon its final passage, be recorded in a book kept for that purpose and shall be signed by the presiding officer and the clerk of the governing body.

(6) The procedure as set forth herein shall constitute a uniform method for the adoption and enactment of municipal ordinances and resolutions and shall be taken as cumulative to other methods now provided by law for adoption and enactment of municipal ordinances and resolutions. By future ordinance or charter amendment, a municipality may specify additional requirements for the adoption or enactment of ordinances or resolutions or prescribe procedures in greater detail than contained herein. However, a municipality shall not have the power or authority to lessen or reduce the requirements of this section or other requirements as provided by general law.

(7) Five years after the adoption of any ordinance or resolution adopted after the effective date of this act, no cause of action shall be commenced as to the validity of an ordinance or resolution based on the failure to strictly adhere to the provisions contained in this section. After 5 years, substantial compliance with the provisions contained in this section shall be a defense to an action to invalidate an ordinance or resolution for failure to comply with the provisions contained in this section.

Without limitation, the common law doctrines of laches and waiver are valid defenses to any action challenging the validity of an ordinance or resolution based on failure to strictly adhere to the provisions contained in this section. Standing to initiate a challenge to the adoption of an ordinance or resolution based on a failure to strictly adhere to the provisions contained in this section shall be limited to a person who was entitled to actual or constructive notice at the time the ordinance or resolution was adopted. Nothing herein shall be construed to affect the standing requirements under part II of chapter 163.

(8) The notice procedures required by this section are established as minimum notice procedures.

History.—s. 1, ch. 73-129; s. 2, ch. 76-155; s. 2, ch. 77-331; s. 1, ch. 83-240; s. 1, ch. 83-301; s. 2, ch. 95-198; s. 5, ch. 95-310; s. 5, ch. 2012-212.

166.0415 Enforcement by code inspectors; citations.—

(1) The governing body of each municipality may designate its agents or employees as code inspectors whose duty it is to assure code compliance. Any person designated as a code inspector may issue citations for violations of municipal codes and ordinances, respectively, or subsequent amendments thereto, when such code inspector has actual knowledge that a violation has been committed.

(2) Prior to issuing a citation, a code inspector shall provide notice to the violator that the violator has committed a violation of a code or ordinance and shall establish a reasonable time period within which the violator must correct the violation. Such time period shall be no more than 30 days. If, upon personal investigation, a code inspector finds that the violator has not corrected the violation within the time period, the code inspector may issue a citation to the violator. A code inspector does not have to provide the violator with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if the code inspector has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible.

(3) A citation issued by a code inspector shall state the date and time of issuance; name and address of the person in violation; date of the violation; section of the codes or ordinances, or subsequent amendments thereto, violated; name of the code inspector; and date and time when the violator shall appear in county court.

(4) Nothing in this section shall be construed to authorize any person designated as a code inspector to perform any function or duties of a law enforcement officer other than as specified in this section. A code inspector shall not make physical arrests or take any person into custody and shall be exempt from requirements relating to the Special Risk Class of the Florida Retirement System, bonding, and the Criminal Justice Standards and Training Commission, as defined and provided by general law.

(5) The provisions of this section shall not apply to the enforcement pursuant to ss. 553.79 and 553.80 of the Florida Building Code adopted pursuant to s. 553.73 as applied to construction, provided that a building

permit is either not required or has been issued by the municipality.

(6) The provisions of this section may be used by a municipality in lieu of the provisions of part II of chapter 162.

(7) The provisions of this section are additional or supplemental means of enforcing municipal codes and ordinances. Except as provided in subsection (6), nothing in this section shall prohibit a municipality from enforcing its codes or ordinances by any other means.

History.—s. 13, ch. 89-268; s. 5, ch. 98-287; s. 116, ch. 2000-141; s. 35, ch. 2001-186; s. 4, ch. 2001-372.

166.0415 Affordable housing.—Notwithstanding any other provision of law, a municipality may adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing ordinances.

History.—s. 15, ch. 2001-252.

166.042 Legislative intent.—

(1) It is the legislative intent that the repeal by chapter 73-129, Laws of Florida, of chapters 167, 168, 169, 172, 174, 176, 178, 181, 183, and 184 of Florida Statutes shall not be interpreted to limit or restrict the powers of municipal officials, but shall be interpreted as a recognition of constitutional powers. It is, further, the legislative intent to recognize residual constitutional home rule powers in municipal government, and the Legislature finds that this can best be accomplished by the removal of legislative direction from the statutes. It is, further, the legislative intent that municipalities shall continue to exercise all powers heretofore conferred on municipalities by the chapters enumerated above, but shall hereafter exercise those powers at their own discretion, subject only to the terms and conditions which they choose to prescribe.

(2) Nothing contained in s. 5, chapter 73-129, Laws of Florida, shall be interpreted to impair any claim against a municipality or to affect the validity of any bonds or obligations issued under authority of any of the chapters enumerated in subsection (1).

History.—s. 5, ch. 73-129.

166.0425 Sign ordinances.—Nothing in chapter 78-8, Laws of Florida, shall be deemed to supersede the rights and powers of municipalities and counties to establish sign ordinances; however, such ordinances shall not conflict with any applicable state or federal laws.

History.—s. 5, ch. 78-8.

Note.—Also published at s. 125.0102.

166.043 Ordinances and rules imposing price controls; findings required; procedures.—

(1)(a) Except as hereinafter provided, no county, municipality, or other entity of local government shall adopt or maintain in effect an ordinance or a rule which has the effect of imposing price controls upon a lawful business activity which is not franchised by, owned by, or under contract with, the governmental agency, unless specifically provided by general law.

(b) The provisions of this section shall not prevent the enactment by local governments of public service rates otherwise authorized by law, including water, sewer, solid waste, public transportation, taxicab, or port rates, rates for towing of vehicles from or immobilization of vehicles on private property, or rates for removal and storage of wrecked or disabled vehicles from an accident scene or the removal and storage of vehicles in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle.

(c) Counties must establish maximum rates which may be charged on the towing of vehicles from or immobilization of vehicles on private property, removal and storage of wrecked or disabled vehicles from an accident scene or for the removal and storage of vehicles, in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle. However, if a municipality chooses to enact an ordinance establishing the maximum fees for the towing or immobilization of vehicles as described in paragraph (b), the county's ordinance established under s. 125.0103 shall not apply within such municipality.

(2) No law, ordinance, rule, or other measure which would have the effect of imposing controls on rents shall be adopted or maintained in effect except as provided herein and unless it is found and determined, as hereinafter provided, that such controls are necessary and proper to eliminate an existing housing emergency which is so grave as to constitute a serious menace to the general public.

(3) Any law, ordinance, rule, or other measure which has the effect of imposing controls on rents shall terminate and expire within 1 year and shall not be extended or renewed except by the adoption of a new measure meeting all the requirements of this section.

(4) Notwithstanding any other provisions of this section, no controls shall be imposed on rents for any accommodation used or offered for residential purposes as a seasonal or tourist unit, as a second housing unit, or on rents for dwelling units located in luxury apartment buildings. For the purposes of this section, a luxury apartment building is one wherein on January 1, 1977, the aggregate rent due on a monthly basis from all dwelling units as stated in leases or rent lists existing on that date divided by the number of dwelling units exceeds \$250.

(5) No municipality, county, or other entity of local government shall adopt or maintain in effect any law, ordinance, rule, or other measure which would have the effect of imposing controls on rents unless:

(a) Such measure is duly adopted by the governing body of such entity of local government, after notice and public hearing, in accordance with all applicable provisions of the Florida and United States Constitutions, the charter or charters governing such entity of local government, this section, and any other applicable laws.

(b) Such governing body makes and recites in such measure its findings establishing the existence in fact of

a housing emergency so grave as to constitute a serious menace to the general public and that such controls are necessary and proper to eliminate such grave housing emergency.

(c) Such measure is approved by the voters in such municipality, county, or other entity of local government.

(6) In any court action brought to challenge the validity of rent control imposed pursuant to the provisions of this section, the evidentiary effect of any findings or recitations required by subsection (5) shall be limited to imposing upon any party challenging the validity of such measure the burden of going forward with the evidence, and the burden of proof (that is, the risk of nonpersuasion) shall rest upon any party seeking to have the measure upheld.

(7) Notwithstanding any other provisions of this section, municipalities, counties, or other entity of local government may adopt and maintain in effect any law, ordinance, rule, or other measure which is adopted for the purposes of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing ordinances.

History.—ss. 1, 2, 3, 4, 5, 6, ch. 77-50; s. 82, ch. 79-400; s. 2, ch. 88-240; s. 3, ch. 90-283; s. 53, ch. 97-300; s. 5, ch. 98-324; s. 9, ch. 99-360; s. 34, ch. 2001-201.

166.0435 Amateur radio antennas; construction in conformance with federal requirements.—

(1) No municipality shall enact or enforce any ordinance or regulation which fails to conform to the limited preemption entitled “Amateur Radio Preemption, 101 FCC 2d 952 (1985)” as issued by the Federal Communications Commission. Any ordinance or regulation adopted by a municipality with respect to amateur radio antennas shall conform to the above cited limited preemption, which states that local regulations which involve placement, screening, or height of antennas based on health, safety, or aesthetic considerations must be crafted to reasonably accommodate amateur communications, and to represent the minimum practicable regulation to accomplish the local authority's legitimate purpose.

(2) Nothing in this section shall effect any applicable provisions of chapter 333.

History.—s. 2, ch. 91-28.

166.044 Ordinances relating to possession or sale of ammunition.—

No municipality may adopt any ordinance relating to the possession or sale of ammunition. Any such ordinance in effect on June 24, 1983, is void.

History.—s. 2, ch. 83-253.

166.0442 Criminal history record checks for certain municipal employees and appointees.—

(1) Notwithstanding chapter 435, a municipality may require, by ordinance, state and national criminal history screening for:

(a) Any position of municipal employment or appointment, whether paid, unpaid, or contractual, which the governing body of the municipality finds is critical to security or public safety;

(b) Any private contractor, employee of a private contractor, vendor, repair person, or delivery person

who is subject to licensing or regulation by the municipality; or

(c) Any private contractor, employee of a private contractor, vendor, repair person, for-hire chauffeur, or delivery person who has direct contact with individual members of the public or access to any public facility or publicly operated facility in such a manner or to such an extent that the governing body of the municipality finds that preventing unsuitable persons from having such contact or access is critical to security or public safety.

(2) The ordinance must require each person applying for, or continuing employment or appointment in, any such position, applying for initial or continuing licensing or regulation, or having such contact or access to be fingerprinted. The fingerprints shall be submitted to the Department of Law Enforcement for a state criminal history record check and to the Federal Bureau of Investigation for a national criminal history record check. The information obtained from the criminal history record checks conducted pursuant to the ordinance may be used by the municipality to determine a person's eligibility for such employment or appointment and to determine a person's eligibility for continued employment or appointment. This section is not intended to preempt or prevent any other background screening, including, but not limited to, criminal history background checks, that a municipality may lawfully undertake.

History.—s. 2, ch. 2002-169; s. 2, ch. 2013-116.

166.0443 Certain local employment registration prohibited.—

(1) Except as authorized by law, no county or municipality shall enact or enforce any ordinance, resolution, rule, regulation, policy, or other action which requires the registration or background screening of any individual engaged in or applying for a specific type or category of employment in the county or municipality or requires the carrying of an identification card issued as a result of such registration or screening, whether or not such requirement is based upon the residency of the person. However, an ordinance that regulates any business, institution, association, profession, or occupation by requiring background screening, which may include proof of certain skills, knowledge, or moral character, is not prohibited by this section, provided that such regulation:

- (a) Is not preempted to the state or is not otherwise prohibited by law;
- (b) Is a valid exercise of the police power;
- (c) Is narrowly designed to offer the protection sought by the county or municipality; and
- (d) Does not unfairly discriminate against any class of individuals.

(2) This section shall not be construed to prohibit any employer, including a local government, from investigating the background of employees or prospective employees or from requiring employees to carry an identification card or registration card.

History.—ss. 1, 2, ch. 86-259.

Note.—Also published at s. 125.581.

166.0444 Employee assistance programs; public records exemption.—

(1) As used in this section, “employee assistance program” means a counseling, therapeutic, or other professional treatment program provided by a municipality to assist any municipal employee who has a behavioral disorder, medical disorder, or substance abuse problem or who has an emotional difficulty which affects the employee's job performance.

(2) A municipal employee's personal identifying information contained in records held by the employing municipality relating to that employee's participation in an employee assistance program is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

History.—s. 3, ch. 98-8; s. 1, ch. 2003-102.

166.0445 Family day care homes; local zoning regulation.—The operation of a residence as a family day care home, as defined by law, registered or licensed with the Department of Children and Families shall constitute a valid residential use for purposes of any local zoning regulations, and no such regulation shall require the owner or operator of such family day care home to obtain any special exemption or use permit or waiver, or to pay any special fee in excess of \$50, to operate in an area zoned for residential use.

History.—s. 3, ch. 86-87; s. 15, ch. 99-8; s. 39, ch. 2014-19.

Note.—Also published at s. 125.0109.

166.0446 Prohibition of fees for first responder services.—

(1) A municipality may not impose a fee or seek reimbursement for any costs or expenses that may be incurred for services provided by a first responder, including costs or expenses related to personnel, supplies, motor vehicles, or equipment in response to a motor vehicle accident, except for costs to contain or clean up hazardous materials in quantities reportable to the Florida State Warning Point at the Division of Emergency Management, and costs for transportation and treatment provided by ambulance services licensed pursuant to s. 401.23(4) and (5).

(2) As used in this section, the term “first responder” means a law enforcement officer as defined in s. 943.10, a firefighter as defined in s. 633.102, or an emergency medical technician or paramedic as defined in s. 401.23 who is employed by the state or a local government. A volunteer law enforcement officer, firefighter, or emergency medical technician or paramedic engaged by the state or a local government is also considered a first responder of the state or local government for purposes of this section.

History.—s. 2, ch. 2009-191; s. 125, ch. 2013-183.

166.0445 Proposed purchase of real property by municipality; confidentiality of records; procedure.

(1)(a) In any case in which a municipality, pursuant to the provisions of this section, seeks to acquire by purchase any real property for a municipal purpose, every appraisal, offer, or counteroffer must be in writing. Such appraisals, offers, and counteroffers are not available for public disclosure or inspection and are exempt from the provisions of s. 119.07(1) until an option contract is executed or, if no option contract is executed, until 30 days before a contract or agreement

for purchase is considered for approval by the governing body of the municipality. If a contract or agreement for purchase is not submitted to the governing body for approval, the exemption from s. 119.07(1) will expire 30 days after the termination of negotiations. The municipality shall maintain complete and accurate records of every such appraisal, offer, and counteroffer. For the purposes of this section, the term "option contract" means a proposed agreement by the municipality to purchase a piece of property, subject to the approval of the local governing body at a public meeting after 30 days' public notice. The municipality will not be under any obligation to exercise the option unless the option contract is approved by the governing body at the public hearing specified in this section.

(b) If the exemptions provided in this section are utilized, the governing body shall obtain at least one appraisal by an appraiser approved pursuant to s. 253.025(6)(b) for each purchase in an amount of not more than \$500,000. For each purchase in an amount in excess of \$500,000, the governing body shall obtain at least two appraisals by appraisers approved pursuant to s. 253.025(6)(b). If the agreed purchase price exceeds the average appraised price of the two appraisals, the governing body is required to approve the purchase by an extraordinary vote. The governing body may, by ordinary vote, exempt a purchase in an amount of \$100,000 or less from the requirement for an appraisal.

(c) Notwithstanding the provisions of this section, any municipality that does not choose with respect to any specific purchase to utilize the exemption from s. 119.07(1) provided in this section may follow any procedure not in conflict with the provisions of chapter 119 for the purchase of real property which is authorized in its charter or established by ordinance.

(2) Nothing in this section shall be interpreted as providing an exemption from, or an exception to, s. 286.011.

History.—s. 2, ch. 84-298; s. 2, ch. 88-315; s. 35, ch. 90-360; s. 9, ch. 94-240; s. 46, ch. 96-406.

166.0451 Disposition of municipal property for affordable housing.—

(1) By July 1, 2007, and every 3 years thereafter, each municipality shall prepare an inventory list of all real property within its jurisdiction to which the municipality holds fee simple title that is appropriate for use as affordable housing. The inventory list must include the address and legal description of each such property and specify whether the property is vacant or improved. The governing body of the municipality must review the inventory list at a public hearing and may revise it at the conclusion of the public hearing. Following the public hearing, the governing body of the municipality shall adopt a resolution that includes an inventory list of such property.

(2) The properties identified as appropriate for use as affordable housing on the inventory list adopted by the municipality may be offered for sale and the proceeds may be used to purchase land for the development of affordable housing or to increase the local government fund earmarked for affordable housing, or may be sold with a restriction that requires the development of the property as permanent affordable

housing, or may be donated to a nonprofit housing organization for the construction of permanent affordable housing. Alternatively, the municipality may otherwise make the property available for use for the production and preservation of permanent affordable housing. For purposes of this section, the term "affordable" has the same meaning as in s. 420.0004(3).

History.—s. 4, ch. 2006-69.

166.047 Telecommunications services.—A telecommunications company that is a municipality or other entity of local government may obtain or hold a certificate required by chapter 364, and the obtaining or holding of said certificate serves a municipal or public purpose under the provision of s. 2(b), Art. VIII of the State Constitution, only if the municipality or other entity of local government:

(1) Separately accounts for the revenues, expenses, property, and source of investment dollars associated with the provision of such services;

(2) Is subject, without exemption, to all local requirements applicable to telecommunications companies; and

(3) Notwithstanding any other provision of law, pays, on its telecommunications facilities used to provide two-way telecommunications services to the public for hire and for which a certificate is required pursuant to chapter 364, ad valorem taxes, or fees in amounts equal thereto, to any taxing jurisdiction in which the municipality or other entity of local government operates. Any entity of local government may pay and impose such ad valorem taxes or fees.

This section does not apply to the provision of telecommunications services for internal operational needs of a municipality or other entity of local government. This section does not apply to the provision of internal information services, including, but not limited to, tax records, engineering records, and property records, by a municipality or other entity of local government to the public for a fee.

History.—s. 2, ch. 97-197.

166.048 Conservation of water; Florida-friendly landscaping.—

(1)(a) The Legislature finds that Florida-friendly landscaping contributes to the conservation, protection, and restoration of water. In an effort to meet the water needs of this state in a manner that will supply adequate and dependable supplies of water where needed, it is the intent of the Legislature that Florida-friendly landscaping be an essential part of water conservation and water quality protection and restoration planning.

(b) As used in this section, "Florida-friendly landscaping" has the same meaning as in s. 373.185.

(2) The governing body of each municipality shall consider enacting ordinances, consistent with s. 373.185, requiring the use of Florida-friendly landscaping as a water conservation or water quality protection or restoration measure. If the governing body determines that such landscaping would be of significant benefit as a water conservation or water quality protection or restoration measure, especially for waters designated as impaired pursuant to s. 403.067, relative

to the cost to implement Florida-friendly landscaping in its area of jurisdiction in the municipality, the governing body shall enact a Florida-friendly landscaping ordinance. Further, the governing body shall consider promoting Florida-friendly landscaping as a water conservation or water quality protection or restoration measure by: using such landscaping in any areas under its jurisdiction which are landscaped after the effective date of this act; providing public education on Florida-friendly landscaping, its uses in increasing water conservation and water quality protection or restoration, and its long-term cost-effectiveness; and offering incentives to local residents and businesses to implement Florida-friendly landscaping.

(3)(a) The Legislature finds that the use of Florida-friendly landscaping and other water use and pollution prevention measures to conserve or protect the state's water resources serves a compelling public interest and that the participation of homeowners' associations and local governments is essential to the state's efforts in water conservation and water quality protection and restoration.

(b) A deed restriction or covenant may not prohibit or be enforced so as to prohibit any property owner from implementing Florida-friendly landscaping on his or her land or create any requirement or limitation in conflict with any provision of part II of chapter 373 or a water shortage order, other order, consumptive use permit, or rule adopted or issued pursuant to part II of chapter 373.

(c) A local government ordinance may not prohibit or be enforced so as to prohibit any property owner from implementing Florida-friendly landscaping on his or her land.

History.—s. 6, ch. 91-41; s. 6, ch. 91-68; s. 3, ch. 2001-252; s. 22, ch. 2009-243.

166.0485 Establishment of neighborhood crime watch programs.—A county sheriff or municipal police department may establish neighborhood crime watch programs within the county or municipality. The participants of a neighborhood crime watch program shall include, but need not be limited to, residents of the county or municipality and owners of businesses located within the county or municipality.

History.—s. 1, ch. 2004-18.

Note.—Also published at s. 30.60.

166.049 Municipal law enforcement agencies; communications and assistance.—The chief of police shall:

(1) Schedule at least two law enforcement officers to be on duty at all times. While on duty, each officer must be able to communicate directly with the other and, if not engaged in another law enforcement activity, respond to the other officer's request for assistance; or

(2) Establish a means for a municipal law enforcement officer to communicate with the county sheriff's office and to request assistance of a routine law enforcement nature from the county sheriff's office; or

(3) Establish a mutual aid agreement as provided in chapter 23 in order for a municipal law enforcement officer to communicate with municipal law enforcement agencies of other jurisdictions and to request routine law enforcement assistance from those agencies.

History.—s. 2, ch. 95-318.

166.0493 Powers, duties, and obligations of municipal law enforcement agencies.—On or before January 1, 2002, every municipal law enforcement agency shall incorporate an antiracial or other antidiscriminatory profiling policy into the agency's policies and practices, utilizing the Florida Police Chiefs Association Model Policy as a guide. Antiprofiling policies shall include the elements of definitions, traffic stop procedures, community education and awareness efforts, and policies for the handling of complaints from the public.

History.—s. 3, ch. 2001-264.

166.0495 Interlocal agreements to provide law enforcement services.—A municipality may enter into an interlocal agreement pursuant to s. 163.01 with an adjoining municipality or municipalities within the same county to provide law enforcement services within the territorial boundaries of the other adjoining municipality or municipalities. Any such agreement shall specify the duration of the agreement and shall comply with s. 112.0515, if applicable. The authority granted a municipality under this section is in addition to and not in limitation of any other authority granted a municipality to enter into agreements for law enforcement services or to conduct law enforcement activities outside the territorial boundaries of the municipality.

History.—s. 1, ch. 97-62.

166.0497 Alteration, amendment, or expansion of established downtown development district; procedures.—

(1) Whenever the governing body of a municipality that has created a downtown development district pursuant to chapter 65-1090, Laws of Florida, determines that it is necessary to alter, amend, or expand the boundaries of the established district by the inclusion of additional territory or the exclusion of lands from the limits of the established district, in order to revitalize and preserve property values or to prevent deterioration in the original district or its surrounding areas, it shall, by resolution, declare its intention to do so.

(2) In the resolution of intent, the governing body shall set a date for a public hearing on adoption of an ordinance altering, amending, or expanding the district and describing the new proposed district. Upon the adoption of the resolution, the governing body shall cause a notice of the public hearing to be published in a newspaper of general circulation published in the municipality, which notice shall be published one time not less than 30 nor more than 60 days prior to the date of the hearing. The notice shall set forth the date, time, and place of the hearing and shall describe the new proposed boundaries of the district. Any citizen, taxpayer, or property owner shall have the right to be heard in opposition to the proposed amendment or expansion of the district. After the public hearing, if the governing body intends to proceed with the amendment or expansion of the district, it shall, in the manner authorized by law, adopt an ordinance defining the new district. The governing body shall not incorporate land into the district not included in the description contained in the resolution and the notice of public

hearing, but it may eliminate any lands from that description when it adopts the ordinance containing the final determination of the boundaries.

History.—s. 36, ch. 99-208.

PART II

MUNICIPAL BORROWING

- 166.101 Definitions.
- 166.111 Authority to borrow.
- 166.121 Issuance of bonds.
- 166.122 Establishment of sinking funds.
- 166.131 Levy of taxes for payment of debt.
- 166.141 Full authority for issuance of bonds.

166.101 Definitions.—As used in this part, the following words and terms shall have the following meanings unless some other meaning is plainly indicated:

(1) The term “bond” includes bonds, debentures, notes, certificates of indebtedness, mortgage certificates, or other obligations or evidences of indebtedness of any type or character.

(2) The term “general obligation bonds” means bonds which are secured by, or provide for their payment by, the pledge, in addition to those special taxes levied for their discharge and such other sources as may be provided for their payment or pledged as security under the ordinance or resolution authorizing their issuance, of the full faith and credit and taxing power of the municipality and for payment of which recourse may be had against the general fund of the municipality.

(3) The term “ad valorem bonds” means bonds which are payable from the proceeds of ad valorem taxes levied on real and tangible personal property.

(4) The term “revenue bonds” means obligations of the municipality which are payable from revenues derived from sources other than ad valorem taxes on real or tangible personal property and which do not pledge the property, credit, or general tax revenue of the municipality.

(5) The term “improvement bonds” means special obligations of the municipality which are payable solely from the proceeds of the special assessments levied for an assessable project.

(6) The term “refunding bonds” means bonds issued to refinance outstanding bonds of any type and the interest and redemption premium thereon. Refunding bonds shall be issuable and payable in the same manner as the refinanced bonds, except that no approval by the electorate shall be required unless required by the State Constitution.

(7) The term “governing body” means the council, commission, or other board or body in which the general legislative powers of the municipality shall be vested.

(8) The term “project” means a governmental undertaking approved by the governing body and includes all property rights, easements, and franchises relating thereto and deemed necessary or convenient for the construction, acquisition or operation thereof, and embraces any capital expenditure which the governing

body of the municipality shall deem to be made for a public purpose including the refunding of any bonded indebtedness which may be outstanding on any existing project which is to be improved by means of a new project.

History.—s. 1, ch. 73-129.

166.111 Authority to borrow.—The governing body of every municipality may borrow money, contract loans, and issue bonds as defined in s. 166.101 from time to time to finance the undertaking of any capital or other project for the purposes permitted by the State Constitution and may pledge the funds, credit, property, and taxing power of the municipality for the payment of such debts and bonds.

History.—s. 1, ch. 73-129; s. 2, ch. 92-345; s. 159, ch. 2003-261.

166.121 Issuance of bonds.—

(1) Bonds issued under this part shall be authorized by resolution or ordinance of the governing body and, if required by the State Constitution, by affirmative vote of the electors of the municipality. Such bonds may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form, registered or not, with or without coupon, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, with or without premium, be secured in such manner, and have such other characteristics as may be provided by such resolution or ordinance or trust indenture or mortgage issued pursuant thereto.

(2) The governing body of a municipality shall determine the terms and manner of sale and distribution or other disposition of any and all bonds it may issue, consistent with the provisions of s. 218.385, and shall have any and all powers necessary or convenient to such disposition.

History.—s. 1, ch. 73-129; s. 13, ch. 2004-305.

166.122 Establishment of sinking funds.—The governing body of a municipality may establish and administer such sinking funds as it deems necessary or convenient for the payment, purchase, or redemption of any outstanding bonded indebtedness of the municipality.

History.—s. 1, ch. 73-129.

166.131 Levy of taxes for payment of debt.—The governing body of a municipality may levy ad valorem taxes upon real and tangible personal property within the municipality as it deems necessary to make payment, including principal and interest, upon the general obligation and ad valorem bonded indebtedness of the municipality or into any sinking funds created under s. 166.122.

History.—s. 1, ch. 73-129.

166.141 Full authority for issuance of bonds.— This part shall be full authority for the issuance of bonds authorized herein.

History.—s. 1, ch. 73-129.

PART III

MUNICIPAL FINANCE AND TAXATION

- 166.201 Taxes and charges.
- 166.211 Ad valorem taxes.
- 166.215 Remittance of funds.
- 166.221 Regulatory fees.
- 166.222 Building code inspection fees.
- 166.223 Special assessments levied on recreational vehicle parks regulated under chapter 513.
- 166.231 Municipalities; public service tax.
- 166.232 Municipalities; public service tax; physical unit base option.
- 166.233 Public service tax; effective dates; procedures for informing sellers of tax levies and related information.
- 166.234 Public service tax; administrative provisions; rights and remedies.
- 166.235 Procedure on purchaser's request for refund or credit.
- 166.241 Fiscal years, budgets, and budget amendments.
- 166.251 Service fee for dishonored check.
- 166.271 Surcharge on municipal facility parking fees.

166.201 Taxes and charges.—A municipality may raise, by taxation and licenses authorized by the constitution or general law, or by user charges or fees authorized by ordinance, amounts of money which are necessary for the conduct of municipal government and may enforce their receipt and collection in the manner prescribed by ordinance not inconsistent with law.

History.—s. 1, ch. 73-129.

166.211 Ad valorem taxes.—

(1) Pursuant to s. 9, Art. VII of the State Constitution, a municipality is hereby authorized, in a manner not inconsistent with general law, to levy ad valorem taxes on real and tangible personal property within the municipality in an amount not to exceed 10 mills, exclusive of taxes levied for the payment of bonds and taxes levied for periods of not longer than 2 years and approved by a vote of the electors.

(2) The assessment and collection of municipal ad valorem taxes shall be performed by appropriate officers as prescribed by general law. At any time millage rates are published for the purpose of giving notice, the rates shall be stated in terms of dollars and cents for every thousand dollars of assessed property value.

History.—s. 1, ch. 73-129.

166.215 Remittance of funds.—Notwithstanding any other provisions of law, in the event that a county remits to a municipality, or has so remitted for any prior year, the identified cost of services or programs as described in s. 125.01(6), all or any part of the funds so

remitted to the municipality may be further remitted by the municipality, acting as the agent of its citizens and taxpayers, to the taxpayers of the municipality.

History.—s. 1, ch. 80-53.

166.221 Regulatory fees.—A municipality may levy reasonable business, professional, and occupational regulatory fees, commensurate with the cost of the regulatory activity, including consumer protection, on such classes of businesses, professions, and occupations, the regulation of which has not been preempted by the state or a county pursuant to a county charter.

History.—s. 1, ch. 73-129.

166.222 Building code inspection fees.—The governing body of a municipality may provide a schedule of reasonable inspection fees in order to defer the costs of inspection and enforcement of the provisions of its building code.

History.—s. 2, ch. 83-160.

166.223 Special assessments levied on recreational vehicle parks regulated under chapter 513. When a municipality levies a non-ad valorem special assessment on a recreational vehicle park regulated under chapter 513, the non-ad valorem special assessment shall not be based on the assertion that the recreational vehicle park is comprised of residential units. Instead, recreational vehicle parks regulated under chapter 513 shall be assessed as a commercial entity in the same manner as a hotel, motel, or other similar facility.

History.—s. 2, ch. 2002-241.

166.231 Municipalities; public service tax.—

(1)(a) A municipality may levy a tax on the purchase of electricity, metered natural gas, liquefied petroleum gas either metered or bottled, manufactured gas either metered or bottled, and water service. Except for those municipalities in which paragraph (c) applies, the tax shall be levied only upon purchases within the municipality and shall not exceed 10 percent of the payments received by the seller of the taxable item from the purchaser for the purchase of such service. Municipalities imposing a tax on the purchase of cable television service as of May 4, 1977, may continue to levy such tax to the extent necessary to meet all obligations to or for the benefit of holders of bonds or certificates which were issued prior to May 4, 1977. Purchase of electricity means the purchase of electric power by a person who will consume it within the municipality.

(b) The tax imposed by paragraph (a) shall not be applied against any fuel adjustment charge, and such charge shall be separately stated on each bill. The term "fuel adjustment charge" means all increases in the cost of utility services to the ultimate consumer resulting from an increase in the cost of fuel to the utility subsequent to October 1, 1973.

(c) The tax in paragraph (a) on water service may be applied outside municipal boundaries to property included in a development of regional impact approved pursuant to s. 380.06, if agreed to in writing by the developer of such property and the municipality prior to

March 31, 2000. If a tax levied pursuant to the subsection is challenged, recovery, if any, shall be limited to moneys paid into an escrow account of the clerk of the court subsequent to such challenge.

(2) Services competitive with those enumerated in subsection (1), as defined by ordinance, shall be taxed on a comparable base at the same rates. However, fuel oil shall be taxed at a rate not to exceed 4 cents per gallon. However, for municipalities levying less than the maximum rate allowable in subsection (1), the maximum tax on fuel oil shall bear the same proportion to 4 cents which the tax rate levied under subsection (1) bears to the maximum rate allowable in subsection (1).

(3) A municipality may exempt from the tax imposed by this section any amount up to, and including, the first 500 kilowatt hours of electricity purchased per month for residential use. Such exemption shall apply to each separate residential unit, regardless of whether such unit is on a separate meter or a central meter, and shall be passed on to each individual tenant.

(4)(a) The purchase of natural gas, manufactured gas, or fuel oil by a public or private utility, either for resale or for use as fuel in the generation of electricity, or the purchase of fuel oil or kerosene for use as an aircraft engine fuel or propellant or for use in internal combustion engines is exempt from taxation hereunder.

(b) A municipality may exempt from the tax imposed by this section the purchase of metered or bottled gas (natural liquefied petroleum gas or manufactured) or fuel oil for agricultural purposes. As used in this paragraph, "agricultural purposes" means bona fide farming, pasture, grove, or forestry operations, including horticulture, floriculture, viticulture, dairy, livestock, poultry, bee, and aquaculture.

(5) Purchases by the United States Government, this state, and all counties, school districts, and municipalities of the state, and by public bodies exempted by law or court order, are exempt from the tax authorized by this section. A municipality may exempt from the tax imposed by this section the purchase of taxable items by any other public body as defined in s. 1.01, or by a nonprofit corporation or cooperative association organized under chapter 617 which provides water utility services to no more than 13,500 equivalent residential units, ownership of which will revert to a political subdivision upon retirement of all outstanding indebtedness, and shall exempt purchases by any recognized church in this state for use exclusively for church purposes.

(6) A municipality may exempt from the tax imposed by this section any amount up to, and including, the total amount of electricity, metered natural gas, liquefied petroleum gas either metered or bottled, or manufactured gas either metered or bottled purchased per month, or reduce the rate of taxation on the purchase of such electricity or gas when purchased by an industrial consumer which uses the electricity or gas directly in industrial manufacturing, processing, compounding, or a production process, at a fixed location in the municipality, of items of tangible personal property for sale. The municipality shall establish the requirements for qualification for this exemption in the manner prescribed by ordinance. Possession by a seller of a

written certification by the purchaser, certifying the purchaser's entitlement to an exemption permitted by this subsection, relieves the seller from the responsibility of collecting the tax on the nontaxable amounts, and the municipality shall look solely to the purchaser for recovery of such tax if it determines that the purchaser was not entitled to the exemption. Any municipality granting an exemption pursuant to this subsection shall grant the exemption to all companies classified in the same five-digit NAICS Industry Number. As used in this subsection, "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.

(7) The tax authorized hereunder shall be collected by the seller of the taxable item from the purchaser at the time of the payment for such service. The seller shall remit the taxes collected to the municipality in the manner prescribed by ordinance. Except as otherwise provided in ss. 166.233 and 166.234, the seller shall be liable for taxes that are due and not remitted to the municipality. This shall not bar the seller from recovering such taxes from purchasers; however, the universities in the State University System shall not be deemed a seller of any item otherwise taxable hereunder when such item is provided to university residences incidental to the provision of educational services.

(8)(a) Beginning July 1, 1995, a municipality may by ordinance exempt not less than 50 percent of the tax imposed under this section on purchasers of electrical energy who are determined to be eligible for the exemption provided by s. 212.08(15) by the Department of Revenue. The exemption shall be administered as provided in that section. A copy of any ordinance adopted pursuant to this subsection shall be provided to the Department of Revenue not less than 14 days prior to its effective date.

(b) If an area that is nominated as an enterprise zone pursuant to s. 290.0055 has not yet been designated pursuant to s. 290.0065, a municipality may enact an ordinance for such exemption; however, the ordinance shall not be effective until such area is designated pursuant to s. 290.0065.

(c) This subsection expires on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act, except that any qualified business that has satisfied the requirements of this subsection before that date shall be allowed the full benefit of the exemption allowed under this subsection as if this subsection had not expired on that date.

(9) A purchaser who claims an exemption under subsection (4) or subsection (5) shall certify to the seller that he or she qualifies for the exemption, which certification may encompass all purchases after a specified date or other multiple purchases. A seller accepting the certification required by this subsection is relieved of the obligation to collect and remit tax; however, a governmental body that is exempt from the tax authorized by this section shall not be required to furnish such certification, and a seller is not required to collect tax from such an exempt governmental body.

(10) Governmental bodies which sell or resell taxable service to nonexempt end users must collect and remit the tax levied under this section.

History.—s. 1, ch. 73-129; ss. 1, 2, ch. 74-109; s. 1, ch. 77-174; s. 1, ch. 77-251; s. 4, ch. 78-299; s. 1, ch. 78-400; s. 1, ch. 82-230; s. 1, ch. 82-399; s. 24, ch. 84-356; s. 1, ch. 85-174; s. 1, ch. 86-155; s. 1, ch. 88-35; s. 1, ch. 88-140; s. 36, ch. 90-360; s. 1, ch. 93-224; s. 44, ch. 94-136; s. 1, ch. 95-403; s. 12, ch. 96-320; s. 47, ch. 96-406; s. 2, ch. 97-233; s. 2, ch. 97-283; s. 10, ch. 98-277; s. 64, ch. 99-2; s. 18, ch. 2000-158; ss. 36, 38, 58, ch. 2000-260; s. 5, ch. 2000-355; s. 28, ch. 2001-60; s. 38, ch. 2001-140; s. 2, ch. 2003-17; s. 13, ch. 2005-287; s. 2, ch. 2009-51.

166.232 Municipalities; public service tax; physical unit base option.—

(1) At the discretion and option of the local tax authority, the tax authorized under s. 166.231 may be levied on a physical unit basis. The tax on the purchase of electricity may be based upon the number of kilowatt hours purchased; the tax on the purchase of metered or bottled gas (natural liquefied petroleum gas or manufactured) may be based on the number of cubic feet purchased; the tax on the purchase of fuel oil and kerosene may be based on the number of gallons purchased; and the tax on the purchase of water service may be based on the number of gallons purchased.

(2) In the event that a municipality chooses the option provided in this section to tax on a physical unit basis, the municipality may choose not to levy and collect the tax authorized under s. 166.231 on any amount up to, and including, the first 500 kilowatt hours of electricity per month purchased for residential use. Such exemption shall apply to each separate residential unit, regardless of whether such unit is on a separate or a central meter, and shall be passed on to each individual tenant.

(3) In exercising its option pursuant to this section, each municipality levying a tax pursuant to this section shall implement a new tax rate structure and tax base in accordance with this act. The new tax rates shall apply to prior purchases of service if the purchases were billed during the month of implementation and thereafter. The shift in the tax rate and tax base for electricity, metered or bottled gas, fuel oil, kerosene, and water shall be accomplished in the following manner:

(a) Each municipality levying the tax shall, prior to converting to unit-based rates, compute the amount of tax it received from each source for the most recent 12 months for which such data is available.

(b) The amount determined under paragraph (a) shall be divided by the number of units purchased and taxed for the same period of time used in paragraph (a).

(c) One hundred five percent of the resulting figure rounded to no more than four decimal places shall be the maximum amount per unit which the municipality may levy upon converting to unit-based rates. However, during the year of conversion to a physical unit tax, the municipality may adjust its rates to ensure that revenues derived from the tax shall equal 105 percent of the revenues derived in the immediately preceding year. In those years subsequent to the year of conversion to a physical unit tax, the municipality may amend its tax rate by ordinance.

History.—s. 5, ch. 78-299; s. 2, ch. 82-230; s. 46, ch. 83-217.

166.233 Public service tax; effective dates; procedures for informing sellers of tax levies and

related information.—

(1) As used in this section and ss. 166.231, 166.232, and 166.234:

(a) “Department” means the Department of Revenue or its designated agent.

(b) “Effective date,” with respect to any levy, repeal of a levy, or update to a list required under this section, means the effective date of the related obligation or change in the obligation of sellers to collect the tax; however, with respect to taxable service that is regularly billed on a monthly cycle basis, each levy, repeal, or update applies to any bill dated on or after the effective date of such event.

(c) “Levy” means and includes the imposition of a tax under s. 166.231 or s. 166.232 and all changes in the rate of a tax imposed under either of those sections.

(d) “Seller” means a person who sells a service that is subject to a levy.

(2)(a) A tax levy must be adopted by ordinance, and the effective date of every levy or repeal thereof must be a subsequent January 1, April 1, July 1, or October 1. A municipality shall notify the department of the adoption or repeal of a levy at least 120 days before the effective date thereof. Such notification must be furnished on a form prescribed by the department and must specify the services taxed under the authority of s. 166.231 or s. 166.232; the rate of tax applied to each service; the effective date of the levy or repeal thereof; and the name, mailing address, and telephone number of a person designated by the municipality to respond to inquiries concerning the tax. The department shall maintain this information for the purpose of responding to inquiries with respect thereto, and any person may, in writing, request such information from the department. For purposes of this section, a response to such a person is timely if in writing and dated no later than 20 days after the receipt of the request. The department shall charge such persons a fee to recover the actual cost of maintaining and furnishing such information. The department has no liability for any loss of or decrease in revenue by reason of any error, omission, or untimely action that results in the nonpayment of the tax imposed under s. 166.231 or s. 166.232. The provisions of this paragraph which prescribe effective dates and require municipalities to furnish notifications to the department do not apply to taxes levied on service provided by the municipality levying the tax or by a separate utility authority, board, or commission of the municipality.

(b) The department may contract with a private entity to maintain and furnish the information described in paragraph (a); however, the department shall establish the fee charged to persons requesting that information.

(3) A municipality shall provide to any person, within 20 days following receipt of the person’s written request, a copy of the ordinance adopting any levy and all amendments thereto, and shall advise such person in writing of the types of media on which the lists described in this subsection are available, the charges, if any, for supplying the lists on each available medium, and the address to which a request for such lists should be transmitted. Within 20 days following receipt of a written request therefor accompanied by payment of the cost,

the municipality shall transmit the following to the person requesting them:

(a) A list containing each street name, known street name aliases, street address number ranges, applicable directionals, and zip codes associated with each street name, for all street addresses located within the municipality. For a range of street address numbers located within a municipality which consists only of odd or even street numbers, the list must specify whether the street numbers in the range are odd or even. The list shall be alphabetical, except that numbered streets shall be in numerical sequence;

(b) A list containing each postal zip code and all the city names associated therewith for all zip codes assigned to geographic areas located entirely within the municipality, including zip codes assigned to post office boxes; and

(c) A sequential list containing all post office box number ranges and the city names and zip codes associated therewith, for all post office boxes located within the municipality, except that post office boxes with postal zip codes entirely within the municipality which are included on the list furnished under paragraph (b) need not be duplicated.

The lists shall be printed, except that, if a list is available on another medium, the municipality shall, upon request, furnish the list on such medium in addition to or in lieu of the printed lists. The municipality shall be responsible for updating the lists as changes occur and for furnishing this information to all sellers affected by the changes. Each update shall specify an effective date which shall be either the next ensuing January 1, April 1, July 1, or October 1; shall be furnished to sellers not less than 60 days prior to the effective date; and shall identify the additions, deletions, and other changes to the preceding version of the list. The seller shall be responsible for charging the tax only to service and billing addresses contained in the lists which include all the required elements required by this subsection, including lists furnished to it by a municipality without the seller's request. The municipality shall be entitled to collect a fee not to exceed the actual cost of duplicating the information furnished to the person requesting it.

(4) The obligation of a seller to collect and remit the tax for any municipality is conditioned upon the timely availability to the seller of accurate information as described in subsections (2) and (3) in the manner prescribed in those subsections. For purposes of determining the timeliness of such information, the date of a request, response, update, or other transmittal is the date received. If any such information is not timely furnished to a seller, any related obligation to collect and remit tax is suspended during the period of delay, except that:

(a) If a request for information described in subsection (2) or subsection (3) precedes the date on which a municipality is required to furnish notification to the department as prescribed in subsection (2), the lack of a timely response to the request does not affect the seller's obligation to collect and remit tax for that municipality.

(b) If a seller is properly collecting and remitting tax on a taxable service from customers within a municipality as of the date of any request for information under subsection (2) or subsection (3), the lack of a timely response to the request does not affect the seller's obligation to continue collecting and remitting the tax levied on the same service from the same customers.

(c) If a failure to furnish timely information under subsection (2) or subsection (3) causes a delay in a seller's receipt of a list or update required by subsection (3) to a date less than 60 days before the effective date of a levy or update, the obligation to collect and remit tax pursuant thereto may not commence until the next subsequent January 1, April 1, July 1, or October 1.

(5) If it is determined from lists or updates furnished under subsection (3) that more than one municipality claims the same address or group of addresses, the seller shall notify the municipalities affected within 60 days. Upon resolution of the competing claims, the affected municipalities shall furnish the seller with a signed agreement describing the resolution. The seller shall begin collecting and remitting tax pursuant to the agreement as of the next ensuing January 1, April 1, July 1, or October 1 that is at least 60 days after its receipt of the signed agreement. Prior to such date, the seller shall continue its prior tax treatment of charges to customers with addresses subject to competing claims. For purposes of this subsection, "prior tax treatment" means the practice of collecting and remitting or not collecting and remitting tax during periods prior to discovery of the competing claims. The seller has no liability to any affected municipality for amounts not collected and remitted before the agreement was implemented, except to the extent that the seller's prior tax treatment was confirmed as correct in the agreement.

(6) If a list or update furnished pursuant to subsection (3) contains all the elements required by that subsection, but such information does not conform with address information in the seller's records, the seller may so notify the municipality that furnished the list or update. The notification shall identify the portion of the list or update that is in question and describe the nature of the problem. If the seller furnishes such a notification within 60 days after first receiving the list or update from the municipality, the seller shall not be obligated to collect and remit the tax with respect to the portion of the list or update at issue until the next ensuing January 1, April 1, July 1, or October 1 which is at least 60 days after the municipality furnishes the seller with information which resolves the issue raised by the seller.

History.—s. 3, ch. 97-233; ss. 39, 58, ch. 2000-260; s. 38, ch. 2001-140.

166.234 Public service tax; administrative provisions; rights and remedies.—

(1) A municipality may, during the seller's normal business hours at the official location of the seller's books and records, audit the records of any seller of a service that is taxable by the municipality under s. 166.231 or s. 166.232, for the purpose of ascertaining whether taxable services have been provided or the correctness of any return that has been filed or payment

that has been made, if the municipality's power to assess tax or grant a refund is not barred by the applicable limitations period. Each such seller must provide to the municipality, upon 60 days' written notice of intent to audit from the municipality, access to applicable records for such service, except an extension of this 60-day period must be granted if reasonably requested by the seller. The seller may at its option waive the 60-day notice requirement. If either the municipality or the seller requires an additional extension, it must give notice to the other no less than 30 days before the existing extension expires, except in cases of bona fide emergency or waiver of the notice requirement by the other party. In an audit, the seller is liable only for its taxable accounts collected which correspond to the information provided to it by the municipality under s. 166.233(3). As used in this section, "applicable records" means records kept in the ordinary course of business which establish the collection and remittance of taxes due. Such applicable records may be provided to the municipality on an electronic medium if agreed to by the seller and the municipality. No fee or any portion of a fee for audits conducted on behalf of a municipality shall be based upon the amount assessed or collected as a result of the audit, and no determination based upon an audit conducted in violation of this prohibition shall be valid.

(2) Each seller of services that are taxable under s. 166.231 or s. 166.232 shall preserve applicable records relating to such taxes until the expiration of the time within which the municipality may make an assessment with respect to that tax; however, a seller is not required to retain duplicative or redundant records.

(3) Before auditing a seller under subsection (1), the municipality shall, upon request of the seller, discuss with the seller the municipality's proposed audit methodology. The municipality shall prepare and furnish to the seller a report of each audit which identifies the nature of any deficiency or overpayment, the amount thereof, and the manner in which the amount was computed. In addition, the municipality, upon request and no less than 45 days before issuing a determination under subsection (8), shall furnish the seller with all other information or material in possession of the municipality or its agents which is necessary to supplement the audit findings.

(4)(a) A municipality may issue a proposed assessment of tax levied under s. 166.231 or s. 166.232 within 3 years after the date the tax was due. However, this limitation is tolled for 1 year if within the 3-year period the municipality issues to the seller a notice of intent to audit. If the audit cannot be completed prior to the expiration of this limitation period as extended by tolling, and such condition is due to the seller's refusal or delay in allowing access to applicable records, the municipality may make a proposed assessment from an estimate based upon the best information available for the taxable period, unless the seller agrees in writing to extend the limitation period. The municipality may also make a proposed assessment from such an estimate if, notwithstanding agreed extensions of the limitation period to a date which is 3 years following issuance of the notice of intent to audit, the seller does

not allow access to applicable records prior to such date.

(b) A seller may apply to a municipality for refund of, or may take a credit for, any overpayment of tax or interest or penalty thereon within 3 years following remittance by the seller, and the municipality must refund or allow the seller credit for such overpayments as were remitted to the municipality. However, in the case of an overpayment which the seller has previously refunded or credited to a purchaser in accordance with subsection (6), the limitation period for the seller's refund application or credit shall expire 3 years following the seller's remittance to the municipality or 60 days following the seller's issuance of the refund or credit to the purchaser, whichever is later.

(c) Upon expiration of the periods set forth in this subsection, the municipality's right to assess tax, interest, or penalty and the seller's right to apply for a refund or credit expire and are barred, unless fraud has occurred; however, sellers and municipalities may enter into agreements to extend these periods.

(5) Notwithstanding subsection (4), a municipality shall offset a seller's overpayment of any tax, interest, or penalty revealed by an audit against any deficiency of tax, interest, or penalty which is determined to be due for the same audit period, and such offsets must be reflected in any proposed assessment. If the overpayments by the seller exceed the deficiency, the municipality must refund to the seller the amount by which the aggregate overpayments exceed the total deficiency. Absent proof to the contrary, the methodology that is employed in computing the amount of a deficiency is presumed to yield an appropriate computation of the amount of any overpayments. As used in subsection (4) and this subsection, "overpayment" to a municipality means and includes all remittances of public service tax, interest, or penalty which were not due to the municipality, including amounts properly collected but remitted to the incorrect municipality.

(6) Any purchaser of a service may request from a seller a refund of, or credit for, taxes collected from the purchaser upon the ground that the amounts collected were not due to any municipality. The seller shall issue the refund or allow a credit to the purchaser entitled thereto, if the request is made within 3 years following collection of the tax from the purchaser. In any event, a seller shall issue a refund or credit to a purchaser within 45 days following the seller's determination of the amount of taxes collected from the purchaser within the preceding 3 years that were not due to any municipality.

(7) Municipalities are authorized to assess interest and penalties in accordance with this subsection for failure to pay any tax when due or to file any required return, except that no penalty shall be assessed absent willful neglect, willful negligence, or fraud. Interest may be assessed at a maximum rate of 1 percent per month of the delinquent tax from the date the tax was due until paid. Penalties may be assessed at a maximum rate of 5 percent per month of the delinquent tax, not to exceed a total penalty of 25 percent, except that a municipality may provide that in no event will the penalty for failure to file a return be less than \$15. In the case of a fraudulent

return or a willful intent to evade payment of the tax, the seller making such fraudulent return or willfully attempting to evade payment of the tax, shall be liable for a specific penalty of 100 percent of the tax. Interest and penalties shall be computed on the net tax due after application of any overpayments, and are subject to compromise pursuant to subsection (14). Interest or penalties and the rates thereof shall be authorized by ordinance.

(8) Any proposed assessment or finding of amounts due the seller constitutes a determination of the municipality for purposes of this section. A determination must separately state the amounts of tax, interest, and penalty claimed to be due or to be refunded, must be accompanied by a written narrative explanation of the basis for the municipality's determinations, must inform the seller of the remedies available to it if it disagrees with any such determination, and must state the consequences of the seller's failure to comply with any demand of the municipality which is stated in the determination.

(9) A seller may file with the municipality a written protest of any determination within 60 days after the determination is issued. The municipality must consider the protest and must, within 60 days, issue a written notice of decision to the seller. The seller may petition the municipality for reconsideration of a notice of decision within 30 days after the issuance of the notice, and, following reconsideration of such a petition, the municipality must, within 30 days, issue a written notice of reconsideration to the seller.

(10) A determination becomes final 60 days after the date of issuance, unless the seller, before the 60-day period expires, has filed a protest or secured a written extension of time within which to file a protest. If the seller has secured a written extension of time and fails to file a protest within the extended time period, the proposed assessment becomes a final assessment at the expiration of the extended filing period. If a protest is timely filed and the seller and the municipality are unable to resolve the disputed issues, the determination becomes final as of the date of issuance of the notice of decision, unless the seller timely files a petition for reconsideration. If a petition for reconsideration is timely filed, the determination becomes final upon issuance of a notice of reconsideration.

(11) A notice of decision or a notice of reconsideration must address each issue raised in the protest or petition, must explain the reasoning underlying the conclusions reached, and must advise the seller of the remedies available to it if it disagrees with the municipality's disposition of the issues.

(12) A seller may contest the legality of any determination by filing an action in circuit court within 60 days after the date the determination becomes final. However, in any action filed in circuit court to contest the legality of any tax, penalty, or interest assessed under this section, the plaintiff must pay the municipality the amount of the tax, penalty, and accrued interest which is not being contested by the seller. Venue lies in the county where the municipality is located. The defendant in any such action is the municipality.

(13) A seller's failure to protest a determination under this section administratively or judicially does not waive or impair the seller's right to seek refund of any overpayment within the time allowed under subsection (4).

(14) A seller's liability for any tax, interest, or penalty may be settled or compromised by the municipality upon the grounds of doubt as to liability or doubt as to the collectibility of such tax, interest, or penalty. A municipality and a seller may enter into a written closing agreement that reflects the terms of any settlement or compromise. When such a closing agreement has been approved on behalf of the municipality and the seller, it is final, conclusive, and binding on the parties with respect to all matters set forth therein; and, except upon a showing of fraud or misrepresentation of material fact, additional assessment may not be made against the seller for the tax, interest, or penalty specified in the closing agreement for the time period specified in the closing agreement, and the seller may not institute any judicial or administrative proceeding to recover any tax, interest, or penalty paid under the closing agreement. In issuing a determination, a municipality must include in its notification thereof to the seller the names of the persons authorized to approve compromises and to execute closing agreements. A municipality may also enter into agreements for scheduling payments of taxes, interest, and penalties, which agreements must recognize both the seller's financial condition and the best interest of the municipality, if the seller gives accurate, current information and meets all other tax obligations on schedule.

(15) All notices of intent to audit, determinations, notices of decisions, and notices of reconsideration issued under this section must be transmitted to the seller by certified mail, return receipt requested, and the date of issuance is the postmark date of the transmittal. All protests and petitions for reconsideration are timely filed if postmarked or received by the municipality within the time prescribed by this section. If mailed, protests and petitions must be transmitted by certified mail, return receipt requested.

(16) A seller may pay any contested amount, in whole or in part, at any time, and the payment does not impair any of the seller's remedies as provided in this section.

(17) Each municipality that levies the public service tax shall furnish sellers with prompt, accurate responses to questions and to requests for tax assistance. In the event a law is enacted requiring payment of interest on refunds of taxes paid pursuant to chapter 203 or chapter 212, municipalities shall pay interest on public service tax refunds at the rate required by such law.

(18) In all matters connected with the administration of the public service tax, sellers have the right:

(a) To be represented by counsel or other qualified representatives;

(b) To procedural safeguards with respect to the recording of interviews during tax determination processes conducted by the municipality; and

(c) To have audits, inspections of records, and interviews conducted at a reasonable time and place.

(19) Municipalities may communicate with each other concerning the following:

(a) Technical information concerning a seller's tax and accounting system necessary to conduct an accurate and efficient audit of a specific company; however, in no event shall the information include any data relevant to a specific purchaser or account or the seller's tax treatment of specific services;

(b) Names and addresses of companies selling taxable services within their respective jurisdictions; and

(c) The name of any company issued a refund of taxes and the total amount of taxes refunded to such company.

(20) Except as otherwise provided in this subsection, a municipality may not assess or attempt to assess a seller for any costs incurred by or charged to the municipality in connection with performing an audit of the seller's books and records, including all travel expenses. Any assessment or proposed assessment of such costs shall be void and unenforceable. A municipality may, however, assess and collect from the seller the reasonable travel expenses incurred by or charged to the municipality in connection with performing an audit of the seller's books and records if the seller received timely notice requesting access to such books and records in accordance with subsection (1) and the seller failed or refused to allow such access and did not propose an alternative date on which the audit was to commence, or if the seller and the municipality agreed in writing to an alternative date on which the audit was to commence but the seller then failed or refused to permit reasonable access to its books and records on the alternative date.

(21) The provisions of this section, other than subsection (6), shall not apply to the extent that the seller is the municipality levying the tax under audit or a separate utility authority, board, or commission of such municipality.

*History.—*s. 4, ch. 97-233.

166.235 Procedure on purchaser's request for refund or credit.—

(1) A purchaser seeking a refund of or credit for public service tax shall submit a written request therefor to the seller within the time prescribed in s. 166.234(6) and in accordance with this section. No such request shall be granted unless the amount claimed was collected from the purchaser and was not due to any municipality.

(a) The request shall be signed by the purchaser and shall be deemed completed for purposes of this section and the limitation period if it states the purchaser's name, mailing address, account number, the tax amounts claimed, the specific months during which those amounts were collected, and the reason for the purchaser's claim that such amounts were not due to any municipality. Upon receipt of a completed request, the seller shall ascertain whether it collected the tax claimed from the purchaser and whether the request is timely.

(b) Within 30 days following receipt of a completed request, the seller shall determine whether lists available pursuant to s. 166.233(3) support the purchaser's

claim and whether all or any portion of the tax timely claimed was not due to any municipality and was collected solely as a result of the seller's error. The seller shall refund or credit the purchaser's account for any such amount within 45 days following its determination thereof.

(c) With respect to all amounts timely claimed which the seller collected from the purchaser and which the seller has not determined to be subject to refund or credit pursuant to paragraph (b), the seller shall, within 30 days following receipt of the completed request, provide a copy thereof to each municipality to which the taxes claimed were remitted and to each municipality which has asserted in writing the right to impose the tax in a geographic area that includes the purchaser's billing address or service address, as the case may be. Within 30 days following receipt of such information, each such municipality shall notify the seller in writing if it approves the issuance of a refund or credit for all or a specified portion of the purchaser's claim. A municipality shall approve the refund or credit except to the extent the tax was due to such municipality. Within 45 days following receipt of notifications establishing that all of the municipalities receiving the request have approved a refund or credit, the seller shall issue a refund or credit the purchaser's account for the amount approved by all such municipalities. The seller's obligation to issue a refund or credit the purchaser's account shall be limited to amounts approved in accordance with this section. The seller shall be entitled to a corresponding refund or credit from any municipality to which the tax was remitted.

(d) The seller shall issue a written response advising the purchaser of the disposition of his or her request. The response shall specify any portion of the tax claimed that is being refunded or credited to the purchaser's account, and the reason for denial of any portion of the request. Reasons for denial include untimely submission of the request, that the seller did not collect the tax claimed, the absence of municipal approval to issue a refund or credit, that the purchaser previously received a refund of or credit for the same tax, and failure to provide information required to complete the request. A copy of each notification received from a municipality pursuant to paragraph (c) shall accompany the response. If the seller submitted the request to a municipality but received no such notification, the response shall so state. With respect to any portion of the request that is granted, the response shall be issued at the time of the refund or credit to the purchaser's account. With respect to any portion of the request which is denied, the response shall be issued within 90 days following receipt of a purchaser's completed request.

(e) The seller may deduct from any refund or credit under this section any amount owed by the purchaser to the seller which is delinquent.

(2) This section provides the sole and exclusive procedure and remedy for a purchaser who claims that a seller has collected municipal public service taxes that were not due. No action arising as a result of the claimed collection of municipal public service taxes that were not due may be commenced or maintained by or on behalf

of a purchaser against a seller or municipality unless the purchaser pleads and proves that he or she has exhausted the procedures in subsection (1) and that the defendant has failed to comply with said subsection; however, no determination of a seller under paragraph (1)(b) shall be deemed a failure to comply with subsection (1) if the seller has complied with paragraphs (1)(c) and (d). In any such action it shall be a complete defense that the seller or municipality has refunded the taxes claimed or credited the purchaser's account therewith; further, in such an action against a seller it shall be a complete defense that the seller collected the tax in reliance upon written information provided by a municipality pursuant to s. 166.233(3) or supplementing such information. Such action shall be commenced no later than 180 days following the purchaser's submission of a completed request, or shall be barred. The relief available to a purchaser as a result of collection of municipal public service taxes that were not due shall be limited to a refund of or credit for such taxes.

History.—s. 1, ch. 99-208.

166.241 Fiscal years, budgets, and budget amendments.—

(1) Each municipality shall establish a fiscal year beginning October 1 of each year and ending September 30 of the following year.

(2) The governing body of each municipality shall adopt a budget each fiscal year. The budget must be adopted by ordinance or resolution unless otherwise specified in the respective municipality's charter. The amount available from taxation and other sources, including balances brought forward from prior fiscal years, must equal the total appropriations for expenditures and reserves. At a minimum, the adopted budget must show for each fund, as required by law and sound financial practices, budgeted revenues and expenditures by organizational unit which are at least at the level of detail required for the annual financial report under s. 218.32(1). The adopted budget must regulate expenditures of the municipality, and an officer of a municipal government may not expend or contract for expenditures in any fiscal year except pursuant to the adopted budget.

(3) The tentative budget must be posted on the municipality's official website at least 2 days before the budget hearing, held pursuant to s. 200.065 or other law, to consider such budget. The final adopted budget must be posted on the municipality's official website within 30 days after adoption. If the municipality does not operate an official website, the municipality must, within a reasonable period of time as established by the county or counties in which the municipality is located, transmit the tentative budget and final budget to the manager or administrator of such county or counties who shall post the budgets on the county's website.

(4) The governing body of each municipality at any time within a fiscal year or within 60 days following the end of the fiscal year may amend a budget for that year as follows:

(a) Appropriations for expenditures within a fund may be decreased or increased by motion recorded in

the minutes if the total appropriations of the fund is not changed.

(b) The governing body may establish procedures by which the designated budget officer may authorize budget amendments if the total appropriations of the fund is not changed.

(c) If a budget amendment is required for a purpose not specifically authorized in paragraph (a) or paragraph (b), the budget amendment must be adopted in the same manner as the original budget unless otherwise specified in the municipality's charter.

(5) If the governing body of a municipality amends the budget pursuant to paragraph (4)(c), the adopted amendment must be posted on the official website of the municipality within 5 days after adoption. If the municipality does not operate an official website, the municipality must, within a reasonable period of time as established by the county or counties in which the municipality is located, transmit the adopted amendment to the manager or administrator of such county or counties who shall post the adopted amendment on the county's website.

History.—s. 1, ch. 73-129; s. 4, ch. 83-106; s. 6, ch. 96-324; s. 14, ch. 2004-305; s. 11, ch. 2011-144.

166.251 Service fee for dishonored check.—The governing body of a municipality may adopt a service fee not to exceed the service fees authorized under s. 832.08(5) or 5 percent of the face amount of the check, draft, or order, whichever is greater, for the collection of a dishonored check, draft, or other order for the payment of money to a municipal official or agency. The service fee shall be in addition to all other penalties imposed by law. Proceeds from this fee, if imposed, shall be retained by the collector of the fee.

History.—s. 2, ch. 75-56; s. 31, ch. 79-164; s. 2, ch. 86-51; s. 4, ch. 89-303; s. 4, ch. 91-211; s. 2, ch. 98-297.

166.271 Surcharge on municipal facility parking fees.—

(1) The governing authority of any municipality with a resident population of 200,000 or more, more than 20 percent of the real property of which is exempt from ad valorem taxes, and which is located in a county with a population of more than 500,000 may impose and collect, subject to referendum approval by voters in the municipality, a discretionary per vehicle surcharge of up to 15 percent of the amount charged for the sale, lease, or rental of space at parking facilities within the municipality which are open for use to the general public and which are not airports, seaports, county administration buildings, or other projects as defined under ss. 125.011 and 125.015, provided that this surcharge shall not take effect while any surcharge imposed pursuant to former s. 218.503(6)(a), is in effect.

(2) A municipal governing authority that imposes the surcharge authorized by this subsection may use the proceeds of such surcharge for the following purposes only:

(a) No less than 60 percent and no more than 80 percent of surcharge proceeds shall be used to reduce the municipality's ad valorem tax millage or to reduce or eliminate non-ad valorem assessments, unless the municipality has previously used the proceeds from

the surcharge levied under former s. 218.503(6)(b) to reduce the municipality's ad valorem tax millage or to reduce non-ad valorem assessments.

(b) Not more than 40 percent and not less than 20 percent of surcharge proceeds shall be used to improve transportation, including, but not limited to, street, sidewalk, roadway, landscape, transit, and streetscape beautification improvements. These designated surcharge proceeds shall be used in downtown or urban core areas. Downtown or urban core areas shall be coterminous with any downtown development district established pursuant to s. 166.0497 or chapter 65-1090, Laws of Florida. Alternatively, any eligible local governmental entity may identify the downtown or urban core area as any contiguous area consisting of lands where the predominant acreage is designated as commercial or its substantial equivalent pursuant to the local government comprehensive plan or other implementing land development regulations.

(3) Any municipality imposing a surcharge authorized by this section shall administer the surcharge locally and should provide for brackets applicable to transactions subject to the surcharge.

History.—s. 1, ch. 2003-98; s. 10, ch. 2007-5; s. 30, ch. 2008-4.

PART IV

EMINENT DOMAIN

- 166.401 Right of eminent domain; procedure; compliance with limitations.
 166.411 Eminent domain; uses or purposes.

166.401 Right of eminent domain; procedure; compliance with limitations.—

(1) All municipalities in the state may exercise the right and power of eminent domain; that is, the right to appropriate property within the state, except state or federal property, for the uses or purposes authorized pursuant to this part. The absolute fee simple title to all property so taken and acquired shall vest in such municipal corporation unless the municipality seeks to condemn a particular right or estate in such property.

(2) Each municipality is further authorized to exercise the eminent domain power granted to the Department of Transportation in s. 337.27(1) and the transportation corridor protection provisions of s. 337.273.

(3) The local governing body of a municipality may not exercise its power of eminent domain unless the governing body adopts a resolution authorizing the acquisition of a property, real or personal, by eminent domain for any municipal use or purpose designated in such resolution.

(4) Each municipality shall strictly comply with the limitations set forth in ss. 73.013 and 73.014.

History.—s. 1, ch. 73-129; s. 5, ch. 88-168; s. 18, ch. 90-227; s. 63, ch. 99-385; s. 13, ch. 2006-11.

166.411 Eminent domain; uses or purposes.—

Subject to the limitations set forth in ss. 73.013 and 73.014, municipalities are authorized to exercise the power of eminent domain for the following uses or purposes:

(1) For the proper and efficient carrying into effect of any proposed scheme or plan of drainage, ditching, grading, filling, or other public improvement deemed necessary or expedient for the preservation of the public health, or for other good reason connected in anywise with the public welfare or the interests of the municipality and the people thereof;

(2) Over railroads, traction and streetcar lines, telephone and telegraph lines, all public and private streets and highways, drainage districts, bridge districts, school districts, or any other public or private lands whatsoever necessary to enable the accomplishment of purposes listed in s. 180.06;

(3) For streets, lanes, alleys, and ways;

(4) For public parks, squares, and grounds;

(5) For drainage, for raising or filling in land in order to promote sanitation and healthfulness, and for the taking of easements for the drainage of the land of one person over and through the land of another;

(6) For reclaiming and filling when lands are low and wet, or overflowed altogether or at times, or entirely or partly;

(7) For the use of water pipes and for sewerage and drainage purposes;

(8) For laying wires and conduits underground; and

(9) For city buildings, waterworks, ponds, and other municipal purposes which shall be coextensive with the powers of the municipality exercising the right of eminent domain.

History.—s. 1, ch. 73-129; ss. 1, 2, ch. 2001-77; s. 4, ch. 2005-3; s. 14, ch. 2006-11.