

the adoption of an appropriate information form by the Department of Revenue as provided by law, §195.027, *supra*, the circuit court clerks must comply with the legislative directive by collecting either the information form or the statutory fee before recording a conveyance of an interest in real property.

073-477—December 20, 1973

## COUNTIES

### APPLICABILITY OF ORDINANCE IN INCORPORATED MUNICIPALITIES

*To: J. Dillard Workman, Director, Hendry County Health Department, LaBelle*

*Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General*

#### QUESTION:

Is the Hendry County Food Service Ordinance enforceable in the incorporated areas of the county?

#### SUMMARY:

A county ordinance may be enforced throughout the county, in the cities as well as the unincorporated areas, if it is not in conflict with an ordinance of the city and deals with a matter that is susceptible to countywide regulation. An ordinance establishing standards for food service establishments and requiring a county permit is such an ordinance.

Under Art. VIII, §1(f), State Const.,

. . . The board of county commissioners of a county not operating under a charter may enact, in a manner prescribed by general law, county ordinances not inconsistent with general or special law, but an ordinance in conflict with a municipal ordinance shall not be effective within the municipality to the extent of such conflict.

I understand that it was the intention of the county commissioners, in adopting the ordinance in question, that it apply throughout the entire county, in the incorporated as well as unincorporated areas. I am also advised that this type of local regulation, if not inconsistent with the state rules and regulations respecting the licensing and inspection of food establishments adopted under the authority of Ch. 509, F. S., is permissible. Thus, the only question presented here is whether a county ordinance of this type may validly be applied to, and enforced in, the municipalities within the county.

A similar question was answered in the affirmative in AGO 071-223. In that opinion I said that, under its constitutional and statutory home rule powers, a county could adopt an ordinance applicable throughout the county, in the incorporated as well as unincorporated areas, when such ordinance deals with a subject that is not purely local in nature and is susceptible to countywide regulation. It was said that a countywide ordinance could not be effective within a municipality to the extent that it conflicted with a municipal ordinance but that, in the absence of such conflict, such an ordinance could be given countywide application.

It seems clear that an ordinance requiring food establishments to comply with certain standards and to secure a permit from the county evidencing such compliance deals with a situation that is the same, without regard to whether the food establishment is in the county or in a city within the county.