

**ORDINANCE NO. 2017-030**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, ESTABLISHING AND IMPOSING A TEMPORARY MORATORIUM WITHIN THE CITY OF COCONUT CREEK ON THE SUBMITTAL AND PROCESSING OF APPLICATIONS AND ISSUANCE OF ANY PERMITS PERTAINING TO COLOCATION ON EXISTING, OR THE CREATION OF NEW, UTILITY POLES IN THE RIGHT-OF-WAY TO SUPPORT SMALL WIRELESS FACILITIES OR MICRO WIRELESS FACILITIES FOR A PERIOD OF 150 DAYS IN ORDER TO ALLOW AN OPPORTUNITY FOR THE CITY TO DEVELOP REGULATIONS CONSISTENT WITH CHAPTER 2017-136, LAWS OF FLORIDA, WHICH BECAME EFFECTIVE JULY 1, 2017; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, during the 2017 Legislative Session, the State Legislature passed House Bill 687, amending Section 337.401, Florida Statutes, creating what is known as the "Advanced Wireless Infrastructure Deployment Act;" and

**WHEREAS**, such legislation was approved by the Governor on June 23, 2017, and became effective on July 1, 2017, under Chapter 2017-136, Laws of Florida; and

**WHEREAS**, the law establishes a process by which wireless providers may place certain "small wireless facilities" on, under, within, or adjacent to certain utility poles or wireless support structures within public rights-of-way that are under the jurisdiction and control of an "authority" (i.e., a county or municipality); and

**WHEREAS**, thus, the law provides that the City may not prohibit, regulate, or charge for the colocation of small wireless facilities or micro wireless facilities in the public rights-of-way, except as specified in the statute; and

**WHEREAS**, the City currently has regulations pertaining to such facilities within its Code of Ordinances, specifically codified within Chapter 13, "Land Development Code," Article III, "Zoning Regulations," Division 4, "Accessory Uses and Structures," Subdivision

IX, "Wireless Communications Facilities," which need to be evaluated in light of the new law; and

**WHEREAS**, City staff has not had adequate time to evaluate the impacts or address local issues that are presented by the new law and take action accordingly; and

**WHEREAS**, the City has determined that it is in the best interest of the residents of the City to protect the general public health, safety, and welfare by studying and planning for this new technology, including how to best support this new technology and address potential impacts on the quality of life for the surrounding community; and

**WHEREAS**, this Ordinance is enacted pursuant to the home rule powers of the City of Coconut Creek as set forth at Article VIII, Section 2, of the Constitution of the State of Florida, Chapter 166, Florida Statutes, and other applicable controlling law.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA:**

**Section 1: Ratification.** That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

**Section 2:** That a temporary moratorium is hereby imposed on the submission and processing of applications and any issuance of permits pertaining to colocation on existing, or the creation of new, utility poles in the right-of-way to support small wireless facilities or micro wireless facilities (as referenced in Section 337.401, Florida Statutes) within the corporate limits of the City of Coconut Creek. While the temporary moratorium is in effect, the City shall temporarily suspend all activities relating to accepting, processing or approving any application relating to the establishment or operation of a small wireless facility or micro wireless facility (as referenced in Section 337.401, Florida Statutes) in order for the City to have the time and opportunity necessary to implement a framework of authorized regulation and fee structure as provided in the newly enacted portions of Section 337.401, Florida Statutes.

**Section 3:** That the City Commission directs the City Manager to have the Department of Sustainable Development staff and the City Attorney's Office initiate a review of the City's Code of Ordinances, Chapter 13, "Land Development Code," Article III, "Zoning Regulations," Division 4, "Accessory Uses and Structures," specifically Subdivision IX, "Wireless Communications Facilities," to prepare a staff report, containing

recommendations as to the appropriate steps forward to best support this new technology and address potential impacts on the quality of life for the surrounding community; and to present such report to the Planning and Zoning Board for its consideration and recommendation(s) to the City Commission.

**Section 4: Duration of moratorium/extension.**

a) The temporary moratorium set forth in this Ordinance shall take effect immediately upon the effective date of this Ordinance and shall be terminated one hundred-fifty (150) days after said effective date.

b) No applications for approvals subject to the moratorium will be accepted by the City until the moratorium has expired.

c) The City Commission may extend the temporary moratorium established in this Ordinance by enactment of an ordinance for a period not to exceed ninety (90) days upon a finding by the City Commission set forth in the ordinance that the problems giving rise to the need for the temporary moratorium established herein continue to exist.

**Section 5: Geographic area covered.** That the temporary moratorium established in this Ordinance shall be effective in the corporate and municipal boundaries of the City of Coconut Creek.

**Section 6: Conflicts.** That all ordinances or parts of ordinances, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**Section 7: Severability.** That should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, clause or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part hereof other than the part declared invalid.

**Section 8: Effective Date.** That this Ordinance shall become effective upon its passage on second and final reading.

**PASSED FIRST READING THIS 27<sup>TH</sup> DAY OF JULY, 2017.**

**PASSED SECOND READING THIS 10<sup>TH</sup> DAY OF AUGUST, 2017.**

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Rebecca A. Tooley, Mayor

Attest:

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Leslie Wallace May, City Clerk

	<u>1<sup>st</sup></u>	<u>2<sup>nd</sup></u>
Tooley	<u>Aye</u>	<u>Aye</u>
Rydell	<u>Aye</u>	<u>Aye</u>
Sarbone	<u>Aye</u>	<u>Aye</u>
Belvedere	<u>Aye</u>	<u>Aye</u>
Welch	<u>Aye</u>	<u>Aye</u>