



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 40-17

City Council

10/12/2017

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor

SUBJECT:

PROPOSED ORDINANCE NO. 40-17 PROVIDING FOR A TEMPORARY MORATORIUM ON THE ACCEPTANCE AND PROCESSING OF APPLICATIONS AND PERMITS FOR THE INSTALLATION OF WIRELESS FACILITIES IN CITY RIGHTS-OF-WAY IN ORDER TO ALLOW AN OPPORTUNITY FOR THE CITY TO DEVELOP REGULATIONS CONSISTENT WITH THE "ADVANCED WIRELESS INFRASTRUCTURE DEPLOYMENT ACT"

RECOMMENDATION:

That City Council adopt Proposed Ordinance No. 40-17 on second reading.

AN ORDINANCE DECLARING, ESTABLISHING AND IMPOSING A TEMPORARY MORATORIUM WITHIN THE CITY OF PENSACOLA, FLORIDA ON THE ACCEPTANCE AND PROCESSING OF APPLICATIONS, AND ISSUANCE OF ANY PERMITS PERTAINING TO COLLOCATION ON EXISTING OR THE INSTALLATION OF NEW UTILITY POLES AND OTHER WIRELESS SUPPORT STRUCTURES IN THE RIGHT-OF-WAY TO SUPPORT SMALL WIRELESS FACILITIES OR MICRO WIRELESS FACILITIES FOR A PERIOD OF 120 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; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

HEARING REQUIRED: No Hearing Required

SUMMARY:

On June 23, 2017, Governor Rick Scott passed into law, the Advanced Wireless Infrastructure Deployment Act ("Act") (HB 687/SB 596), effective July 1, 2017. This state legislation substantially changes the rights of cities and counties in regulating the installation of wireless communication facilities in public rights-of-way.

The Act amends F.S., Section 337.401 and grants wireless service providers and infrastructure companies access to public rights-of-way for the installation of wireless facilities, including: 1) collocation of small cell facilities on government-owned poles; 2) installation of new poles to accommodate facilities; 3) installation of ground mounted equipment; and 4) installation of micro cells.

The new law provides requirements that local governments must follow to process applications, including a general time frame of 60 days to act on applications. Cities and counties may provide for bonds, insurance, abandonment and other matters by ordinance. The Act affords limited bases for denial of applications, including public safety. Further, installation is subject to applicable codes, including local codes or ordinances adopted to implement the Act, and that may include objective design standards to address reasonable design, material, color, stealth, spacing and location standards for ground mounted equipment and small wireless facilities.

The purpose of the proposed ordinance providing for a moratorium on applications to install small and micro wireless communications facilities in the right-of-way is to provide the City of Pensacola time to amend its wireless communication facility ordinance to ensure its compliance with the Advanced Wireless Infrastructure Deployment Act and to provide for reasonable regulations concerning such facilities.

In recent months, many local governments, including the City of West Palm Beach and the City of Jacksonville, have adopted similar moratoria to allow necessary time to review existing ordinances and develop regulations consistent with the Act. The moratorium allows the City to temporarily suspend the application and issuance of permits for the installation of wireless facilities within the City's rights-of-way until the appropriate ordinances reasonably regulating such installations may be in place.

PRIOR ACTION:

September 14, 2017 - City Council voted to approve Ordinance No. 40 - 17 on first reading.

FUNDING:

N/A

FINANCIAL IMPACT:

None

CITY ATTORNEY REVIEW: Yes

9/1/2017

STAFF CONTACT:

Eric W. Olson, City Administrator
Lysia H. Bowling, City Attorney

ATTACHMENTS:

- 1) Proposed Ordinance No. 40-17

PRESENTATION: No