

ORDINANCE 2017

AN ORDINANCE OF THE CITY OF OVIEDO, FLORIDA ESTABLISHING AND IMPOSING A TEMPORARY MORATORIUM WITHIN THE CITY OF OVIEDO ON THE EFFECTS OF COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 687 PASSED BY THE FLORIDA LEGISLATURE DURING THE RECENTLY ENDED 2017 LEGISLATIVE SESSION; PROHIBITING ANY AND ALL APPROVALS DURING THE MORATORIUM PERIOD FOR ANY RIGHT-OF-WAY LOCATED WITHIN THE CITY OF OVIEDO IN ORDER TO ALLOW AN OPPORTUNITY FOR THE CITY TO DEVELOP AN ORDINANCE, AS APPROPRIATE, RELATING TO THE IMPACTS OF THE LEGISLATION; PROVIDING FOR LEGISLATIVE AND ADMINISTRATIVE FINDINGS; PROVIDING FOR GEOGRAPHIC AREA ENCOMPASSED BY THE MORATORIUM; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR NON-CODIFICATION AS WELL AS THE CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Committee Substitute for Committee Substitute for House Bill 687 (CS/CS/HB 687) passed the Florida House of Representatives on April 28, 2017 and the legislation was subsequently passed by the Florida Senate on the same day; and

WHEREAS, the bill creates the "Advanced Wireless Infrastructure Deployment Act" (which legislation has also been referred to by local government advocates as the "Wireless Giveaway"); and

WHEREAS, the legislation 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 bill provides that the City may not prohibit, regulate, or charge for the collocation of small wireless facilities in the public rights-of-way, except as specified in the legislation; and

WHEREAS, on June 23, 2017, Governor Rick Scott approved CS/CS/HB 687 over the objections expressed not only by the City Commission, but by numerous other local governments and advocacy groups; and

WHEREAS, CS/CS/HB 687 became effective on July 1, 2017 with the initial codification as Chapter 2017-136, *Laws of Florida*; and

WHEREAS, City staff has not had adequate time to evaluate the impacts or address local issues that are presented by the legislation; and

WHEREAS, this Ordinance is enacted pursuant to the home rule powers of the City of Oviedo 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 ENACTED BY THE CITY COUNCIL OF THE CITY OF OVIEDO, FLORIDA THAT:

SECTION 1. LEGISLATIVE AND ADMINISTRATIVE FINDINGS.

(a). The City of Oviedo has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance.

(b). The foregoing recitals (whereas clauses) are hereby ratified, affirmed and confirmed as being true and correct and are hereby made a part of this Ordinance.

SECTION 2. STUDY AND REVIEW PROCESS.

(a). During the temporary moratorium period designated in Section 3 of this Ordinance, the City staff, are hereby directed to study controlling State law regarding Chapter 2017-136, *Laws of Florida*.

(b). The essential purpose of such a review and study by the City staff is to develop and propose to the City Council amendments to the City's codes and ordinances as may be necessary and appropriate to conceptualized a framework of authorized regulation and fee structure as to implementing the legislation.

SECTION 3. IMPOSITION OF TEMPORARY MORATORIUM.

(a). All activity relating to the acceptance, review and action upon matters regulated by the provisions of Chapter 2017-136, *Laws of Florida*, is temporarily suspended in order for the City to have the time and opportunity necessary to a framework of authorized regulation and fee structure as to implementing the legislation.

(b). Based upon the legislative findings, purpose, and intent set forth herein, there is hereby imposed a temporary moratorium on all matters regulated by the provisions of Chapter 2017-136, *Laws of Florida*.

(c). During the time that the moratorium imposed by this Ordinance is in effect, no applications will be accepted with regard to the matters regulated by the provisions of Chapter 2017-136, *Laws of Florida*, that pertain to activities proposed to occur within the City Limits of the City.

SECTION 4. GEOGRAPHIC AREA COVERED.

This Ordinance applies to all areas within the City Limits of the City of Oviedo.

SECTION 5. DURATION OF MORATORIUM.

(a). The temporary moratorium established by this Ordinance has taken effect upon first reading of this Ordinance (under the zoning in progress doctrine) and shall terminate on September 30, 2017.

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

(c). The temporary moratorium set forth in this Ordinance shall expire prior to the termination date set forth herein if the City Council enacts an ordinance addressing the matters regulated by the provisions of Chapter 2017-136, *Laws of Florida*.

SECTION 6. IMPLEMENTING ADMINISTRATIVE ACTIONS.

(a). The City Manager is hereby authorized and directed to implement the provisions of this Ordinance and with regard to the implementation of the matters regulated by the provisions of Chapter 2017-136, *Laws of Florida*, by the promulgation of rules and the development and usage of forms and processes all as may be deemed necessary or appropriate by the City Manager.

(b). The City Manager and City Attorney are also hereby authorized and directed to generally implement the provisions of this Ordinance and to take any and all necessary administrative actions to bring into effect the provisions of this Ordinance in accordance with controlling law as such officers may deem appropriate in their respective roles and functions under the *City of Oviedo City Charter*.

SECTION 7. SAVINGS.

The prior actions of the City of Oviedo in terms of the matters relating to the regulation of rights-of-way, as well as any and all related matters, are hereby ratified and affirmed.

SECTION 8. CONFLICTS.

All ordinances or part of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 9. SEVERABILITY.

If any section, sentence, phrase, word, or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair

the validity, force or effect of any other section, sentence, phrase, word, or portion of this Ordinance not otherwise to be invalid, unlawful, or unconstitutional.

SECTION 10. NON-CODIFICATION.

(a). The provisions of this Ordinance shall not be included and incorporated within the *Land Development Code* of the City of Oviedo, Florida, and neither the *Land Development Code* nor the *Code of Ordinances of the City of Oviedo* shall be revised to accommodate such inclusion.

(b). Typographical errors and other matters of a similar nature that do not affect the intent of this Ordinance, as determined by the City Clerk and City Attorney, may be corrected with the endorsement of the City Manager, or designee, without the need for a public hearing.

SECTION 11. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon passage and adoption.

FIRST READING: June 19, 2017.

SECOND READING: July 17, 2017.

THIRD READING: _____

PASSED AND ADOPTED this _____ day of _____, 2017.

**DOMINIC PERSAMPIERE
MAYOR OF THE CITY OF OVIEDO, FLORIDA**

ATTEST:

**BARBARA J. BARBOUR
CITY CLERK**