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ORDINANCE NO. 2017-115

AN ORDINANCE OF THE CITY OF TAMPA, FLORIDA, IMPOSING AN ABATEMENT UPON THE ACCEPTANCE AND/OR PROCESSING OF APPLICATIONS FOR COLLOCATION ON EXISTING OR CREATION OF NEW UTILITY POLES IN THE RIGHT-OF-WAY TO SUPPORT SMALL WIRELESS FACILITIES OR MICRO WIRELESS FACILITIES, FOR A PERIOD OF 120 DAYS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the state legislature has passed a bill (HB 687) amending Florida Statutes Section 337.401, regarding the use of right-of-way for utilities, and more specifically creating regulations called the "Advanced Wireless Infrastructure Deployment Act"; and

WHEREAS, this Bill (which as of June 9, 2017, has not been signed into law by the Governor) would go into effect on July 1, 2017, if enacted; and

WHEREAS, this Bill provides new requirements for municipalities in regards to collocation on existing or creation of new utility poles in the right-of-way to support small wireless facilities or micro wireless facilities; and

WHEREAS, the Bill allows for some local government regulation in this area, including some existing regulations and certain objective design standards, among others; and

WHEREAS, the City of Tampa staff intends to study the impact of the Bill and create new regulations allowed under the Bill, and City staff needs time to review, consider, and modify existing regulations to effectively implement the requirements and allowances under the Bill; and

WHEREAS, even if the Bill is not signed into law, considering the potential for rapid deployment of this new technology, City staff needs to consider the most effective, expedient, and appropriate way to implement this new technology and address impacts from same; and

WHEREAS, the City has determined that it is in the best interest of the citizens 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

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WHEREAS, the City of Tampa will move forward expeditiously to study and bring forth, if necessary, new regulations for consideration at public hearings; and

WHEREAS, a duly noticed public hearing as required by law was held by the City Council of the City of Tampa, at which public hearing all residents and interested persons were given an opportunity to be heard.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TAMPA, FLORIDA:

Section 1. That the aforementioned recitations are true and correct.

Section 2. That the purpose of this ordinance is to preserve the status quo and enable sufficient time to review, study, hold public hearings, and prepare and adopt any needed amendment or amendments to the City of Tampa Code of Ordinances, relating to the new technology of micro wireless facilities and small wireless facilities as defined in HB 687 (2017), including siting of utility poles and collocation with existing utility poles in the right-of-way.

Section 3. That the City hereby adopts an abatement upon the acceptance of applications for, the processing of, and the issuance of permits, orders or any other official action of City of Tampa permitting or having the effect of permitting, in the right-of-way, the siting of utility poles and collocation with existing utility poles to support small wireless facilities and micro wireless facilities, as defined in HB 687 (2017), from the effective date of this Ordinance, remaining in effect for one hundred and twenty (120) days, the estimated time to study the aforementioned, and enact necessary regulatory or non-regulatory measures in order to implement the findings of such studies.

The City will not take any action on any application for permit or issue any order or take other official action which would have the effect of allowing or permitting, in the right-of-way, the siting of utility poles and collocation with existing utility poles to support small wireless facilities and micro wireless facilities as defined in HB 687 (2017), except as provided in this ordinance. It is not the purpose of this ordinance to permanently deny orders and permits for other uses that are permitted by right or special use permit and that otherwise comply with all applicable codes, ordinances, regulations and policies.

Section 4. That this ordinance shall be applicable throughout the jurisdictional boundaries of the City of Tampa.

Section 5. That the proper officers and employees of the City are hereby authorized to do all things necessary and proper to carry out the provisions of this Ordinance.

Section 6. That should a court of competent jurisdiction declare any part of this Ordinance unconstitutional or invalid, the remaining parts hereof shall not, in any way, be affected by such determination as to the invalid part.

Section 7. That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of any conflict.

Section 8. That this ordinance shall take effect immediately upon becoming a law.

PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF TAMPA, FLORIDA, ON JUL 1 3 2017.

ATTEST:

~~CHAIRMAN~~CHAIRMAN PRO-TEM
CITY COUNCIL

CITY CLERK/~~DEPUTY CITY CLERK~~

APPROVED BY ME ON 7/19/17

BOB BUCKHORN, MAYOR

APPROVED AS TO LEGAL
SUFFICIENCY BY:

/es/
REBECCA M. KERT
SR. ASSISTANT CITY ATTORNEY