

ORDINANCE 18-02

AN ORDINANCE OF THE CITY OF ALACHUA, FLORIDA, IMPOSING A SIX (6) MONTH MORATORIUM ON THE ACCEPTANCE, REVIEW, PROCESSING, APPROVAL OR AMENDMENT(S) OF APPLICATIONS FOR OR THE LOCATION OF WIRELESS COMMUNICATIONS FACILITIES INCLUDING SMALL WIRELESS FACILITIES IN A PUBLIC RIGHT OF WAY WITHIN THE CITY LIMITS; PROVIDING FOR A ONE TIME EXTENSION OF THE SIX MONTH TERM UPON A FINDING BY THE CITY COMMISSION THAT SUCH EXTENSION IS NECESSARY; PROVIDING AN EFFECTIVE DATE; PROVIDING AN END DATE FOR THE SIX MONTH TERM AND FOR ONE EXTENSION, IF ANY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES AND APPENDICES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CITY CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, effective July 1, 2017, the State of Florida amended Florida Statute 337.401 by adding Section (7) “Advanced Wireless Infrastructure Deployment Act” allowing wireless facilities including micro and small wireless facilities (SWFs) to be located within the public right of way.

WHEREAS, the installation of SWFs contemplated in Section 337.401 will be collocated on existing utility poles in the public rights of way.

WHEREAS, the City of Alachua is in the process of undergrounding all electric distribution and other utility lines in the City where not prohibited by cost or other barrier.

WHEREAS, there are currently before the Federal Communications Commission (FCC) two matters, WT Docket No. 16-421, Streamlining Deployment of Small Cell Infrastructure by Improving Wireless Facility Siting Policies and WT Docket No. 17-79, Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment.

WHEREAS, the issue of charges a utility may impose for the collocation of SWFs on its utility poles are also raised in the cited matters now before the FCC.

WHEREAS, the matters before the Federal Communications Commission other federal and state law and regulations and the City Code of Ordinances present likely conflicts that City Staff must fully investigate and consider.

WHEREAS, it may be necessary for the City to identify and retain a telecommunications consultant to help navigate the complexities of the multiple challenges presented by the new state law.

WHEREAS, the City needs time to evaluate the full implications of the new law and consider what amendments to the City Code are needed and allowed to implement the new law and to otherwise protect the interests of the public.

WHEREAS, the City Commission finds that six (6) months may be sufficient time for this process and if additional time is required City staff shall request a one-time extension to be approved by the City Commission.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF ALACHUA, FLORIDA.

Section 1. Findings of Fact

The above recitals are true and correct and are incorporated herein by reference.

Section 2. Moratorium

The City Commission of Alachua, Florida hereby establishes a six (6) month moratorium on the acceptance, review, processing, approval or amendment(s) of applications for wireless facilities including small wireless facilities, micro wireless facilities and utility poles for collocation of small wireless facilities in any City public rights-of-way. If additional time is required City staff may request a one-time extension of the six (6) month moratorium. Nothing in this Ordinance shall affect or waive the right of the City to establish applicable regulations by Ordinance to implement the Advanced Wireless Infrastructure Deployment Act, consistent with applicable law.

Section 3. Inclusion of the Code

The City Commission of the City of Alachua, Florida may make this ordinance a part of the Code of Ordinances of the City of Alachua, Florida and, in that event, the parts of this ordinance may be renumbered or relettered and the word “ordinance” may be changed to “section”, “article” or other designation.

Section 3. Providing for Severability

It is the declared intent of the Alachua City Commission that, if any section, sentence, clause, phrase, or provision of this ordinance is for any reason held or declared to be unconstitutional, void, or inoperative by a court or agency of competent jurisdiction, such holding of invalidity or unconstitutionality shall not affect the remaining provisions of this ordinance and the remainder of this ordinance, after the exclusion of such part or parts, shall be deemed to be valid.

Section 4. Repealing Clause

All ordinances or parts of ordinances in conflict with this ordinance are, to the extent they conflict with this ordinance, repealed.

Section 5. Effective Date

This Ordinance shall be effective upon its passage and adoption on the second and final reading.

PASSED on first reading on the 11th day of December, 2017.

PASSED on second and final reading on the 8th day of January, 2018.

**CITY COMMISSION OF THE
CITY OF ALACHUA, FLORIDA**



Gib Coerper, Mayor

ATTEST:



Traci L. Gresham, City Manager/Clerk

APPROVED AS TO FORM



Marian B. Rush, City Attorney