

City of Tarpon Springs, Florida STAFF REPORT

JUNE 19, 2018

TO: MAYOR & BOARD OF COMMISSIONERS

FROM: PLANNING AND ZONING DEPARTMENT

HEARING DATES: JUNE 26, 2018 (BOARD OF COMMISSIONERS)
JULY 10, 2018 (BOARD OF COMMISSIONERS)

SUBJECT: **APP-18-72: ORDINANCE 2018-15, PROVIDING FOR EXTENSION OF AN ESTABLISHED TEMPORARY MORATORIUM ON WIRELESS COMMUNICATION FACILITIES:**

AN ORDINANCE OF THE CITY OF TARPON SPRINGS, FLORIDA, PROVIDING FOR EXTENSION OF AN ESTABLISHED TEMPORARY MORATORIUM ON THE SUBMITTAL AND PROCESSING OF ANY APPLICATION, AND ISSUANCE OF ANY PERMIT FOR LOCATION OF ANY WIRELESS COMMUNICATION FACILITIES, TOWERS OR ANTENNAS IN THE CITY'S RIGHT-OF-WAY FOR A PERIOD OF ONE HUNDRED TWENTY (120) DAYS; PROVIDING FOR CONFLICTS, SEVERABILITY, CONSTRUCTION AND PUBLICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

I. STAFF RECOMMENDATION

Staff recommends approval of Ordinance 2018-15.

II. BACKGROUND

The purpose of this Ordinance is to provide the City of Tarpon Springs with the opportunity to review the impact of recent changes in law on wireless communication facilities within the City's public rights-of-way. New wireless technologies may require improvements that have not been contemplated by the City, in the management and control of the City's public right-of-way. Staff has studied this issue and finds that additional time and interdepartmental coordination is needed to develop a clear, comprehensive strategy that considers and includes:

- Exploring the impact of small microcell facilities on the historic district and neighborhoods,
- Determining the impact of microcell facilities within the City's rights-of-way from an operational and maintenance perspective,

- Drafting development standards which will be context-sensitive for the City while also meeting the standards adopted in 2017 pursuant to Florida House of Representatives Bill 687, as now codified in Florida Statutes 337.401, and,
- Organizing a City Staff task force of relevant departments to coordinate efforts to develop appropriate regulations.

A one-time extension of the current moratorium for an additional 120 days is sufficient time to accomplish this objective.

List of Exhibits:

- 1) Ordinance 2018-15

ORDINANCE NO. 2018-15

AN ORDINANCE OF THE CITY OF TARPON SPRINGS, FLORIDA, EXTENDING THE ESTABLISHED TEMPORARY MORATORIUM ON THE SUBMISSION AND PROCESSING OF ANY APPLICATION, AND ISSUANCE OF ANY PERMIT FOR LOCATION OF ANY WIRELESS COMMUNICATION FACILITIES, TOWERS OR ANTENNAS IN THE CITY'S RIGHT-OF-WAY FOR AN ADDITIONAL PERIOD OF ONE HUNDRED TWENTY (120) DAYS; PROVIDING FOR CONFLICTS, SEVERABILITY, CONSTRUCTION AND PUBLICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Chapter 166 of the Florida Constitution, the City of Tarpon Springs is authorized and required to protect the public health, safety, and welfare of its citizens and has the power and authority to enact regulations for valid governmental purposes that are not inconsistent with general and special law; and

WHEREAS, the City provides municipal services to its citizens, including the regulation and licensing of businesses and the issuance of permits; and

WHEREAS, the City continues to review its wireless telecommunications ordinances relating to towers, antennas and similar facilities in the City's right-of-way to protect the public health, safety and welfare; and

WHEREAS, the City is considering revised regulations with regards to said Facilities and Towers to ensure that City ordinances comply with applicable Federal and State laws; and

WHEREAS, the State of Florida has adopted legislation codified as to Section 337.401, Florida Statutes, which regulates the placement of telephone, telegraph, or other communication service lines or poles within the public rights-of-way and regulations regarding same; and

WHEREAS, HB 687 in the 2017 Legislative Session created the "Advanced Wireless Infrastructure Deployment Act," which prevents local and county governmental entities from prohibiting, regulating, or charging for the collocation of small wireless facilities in public right-of-way or the installation, placement, maintenance, or replacement of certain micro wireless facilities; and

WHEREAS, new wireless technologies may require improvements, that have not been contemplated by the City, in the management and control of the City's public right-of-way; and

WHEREAS, the Board of Commissioner and City staff have noted the potential for rapid deployment of such wireless communication facilities and the need to allow staff time to undertake a thorough analysis of the City's current regulations, State and Federal laws, and to carefully review, consider and modify the process for adoption and implementation of reasonable non-discriminatory rules and regulations regarding the placement or installation of wireless communication facilities and telecommunication towers and antennas, as defined by law, within the City's public right-of-way; and

WHEREAS, the Board of Commissioners directs the City staff and counsel to expeditiously study and develop a comprehensive strategy for the Board's consideration, along with amendments to the City's Code of Ordinances to ensure compliance with State and Federal law relating to wireless communication facilities and telecommunication towers and antennas in the public rights-of-way for an additional period of one hundred and twenty (120) days.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF TARPON SPRINGS, FLORIDA AS FOLLOWS;

SECTION 1. Recitals. The above recitals are hereby adopted as legislative findings, purpose and intent of the Board of Commissioners.

SECTION 2. The Board of Commissioners hereby creates a temporary moratorium on the acceptance and processing of all applications, of any form, and the issuance of any permits, of any form, relating to the placement and installation of wireless communication facilities and telecommunication towers and antennas, as defined by law, within the City's public rights-of-way for an additional period of one hundred and twenty (120) days, in order to allow City staff time to complete a thorough analysis of the City's current regulations and State and Federal laws.

SECTION 3. Conflicts. All ordinances or parts of ordinances, in conflict herewith are hereby repealed to the extent of any conflict with the Ordinance.

SECTION 4. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 5. Construction. This Ordinance is to be liberally construed to accomplish its objectives.

SECTION 6. Publication. This Ordinance shall be published in accordance with the requirements of law.

SECTION 7. Effective Date. This ordinance shall take effect immediately upon adoption. The temporary moratorium shall terminate one hundred and twenty (120) days from the effective date of this ordinance, unless the Board of Commissioners rescinds or extends the moratorium by subsequent ordinance.

PASSED ON FIRST READING BY THE BOARD OF COMMISSIONERS OF THE CITY OF TARPON SPRINGS, FLORIDA, THIS ___ DAY OF _____, 2018.

PASSED AND ADOPTED ON SECOND READING BY THE BOARD OF COMMISSIONERS OF THE CITY OF TARPON SPRINGS, FLORIDA, THIS ___ DAY OF _____, 2018.