

ORDINANCE NO. 160798

An ordinance of the City of Gainesville, Florida, readopting and ratifying Ordinance No. 160401, and extending time period of the temporary moratorium to prohibit the filing, acceptance or processing of any permit, development order, or any other official action of the City having the effect of permitting or allowing the construction of wireless communication facilities in the public right-of-way within the city limits; providing a severability clause; providing repealing clauses; and providing an effective date.

WHEREAS, on October 20, 2016, the Gainesville City Commission adopted Ordinance No. 160401 imposing a temporary moratorium (herein “moratorium”) on the issuance of any permit, development order, or any other official action of the City of Gainesville having the effect of permitting or allowing the construction of wireless communication facilities in the public rights-of-way within the City limits, as more specifically described in Ordinance No. 160401; and

WHEREAS, City staff has met with legal counsel to evaluate the options available to the City and to formulate a recommendation to the City Commission; and

WHEREAS, a Petition for Declaratory Ruling was filed with the Federal Communication Commission and the Federal Communication Commission issued a Public Notice (DA-16-1427) seeking comment on streamlining deployment of small cell infrastructure in the rights-of-way by potentially imposing regulations on local governments or preempting local government regulations; and

WHEREAS, Senate Bill 0596 was filed in the State Senate and its companion bill, HB 687 was filed in the State House, which, if adopted, would prohibit the City from prohibiting, regulating or charging for the collocation of small wireless facilities in public rights-of-way under certain circumstances;

WHEREAS, in light of the additional potential federal and state regulations on the City’s authority to regulate wireless telecommunication facilities, the City requires an additional period

1 of time to review, study, hold public hearings, and prepare and adopt an amendment or
2 amendments to the City of Gainesville Comprehensive Plan and/or Code of Ordinances to
3 address this issue; and

4 **WHEREAS**, the City Commission finds that it is in the best interest of its residents,
5 businesses and visitors to enact sufficient regulations to protect the public health, safety and
6 welfare and that it is in the City's best interest, for the City to extend the term of the moratorium
7 for an additional six months; and

8 **WHEREAS**, the City Commission readopts the findings in Ordinance No. 160401 in
9 support of this additional 6 month extension of the moratorium; and

10 **WHEREAS**, at least 10 days' notice has been given of the public hearing once by
11 publication in a newspaper of general circulation notifying the public of this proposed ordinance
12 and of a public hearing in the City Commission meeting room, first floor, City Hall in the City of
13 Gainesville; and

14 **WHEREAS**, the public hearings were held pursuant to the published notice described at
15 which hearings the parties in interest and all others had an opportunity to be and were, in fact,
16 heard.

17 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF**
18 **THE CITY OF GAINESVILLE, FLORIDA:**

19 **Section 1.** Readoption and ratification. The City Commission readopts and reaffirms
20 Ordinance No. 160401, and adopts the foregoing findings in the Whereas clauses above.

21 **Section 2.** Imposition of an Additional Time Period of the Temporary Moratorium.
22 The time period of the temporary moratorium, as provided in Section 4. of Ordinance No.
23 160401, is extended for an additional period of 6 months and ending either at 11:59 p.m. on
24 October 7, 2017, or the date of the final adoption of ordinance(s) amending the City of

1 Gainesville Code of Ordinances, relating to construction of wireless communication facilities in
2 the public rights-of-way within the City, whichever date occurs sooner.

3 **Section 3.** Except as modified and amended, the provisions and terms of Ordinance No.
4 160401 shall remain in full force and effect.

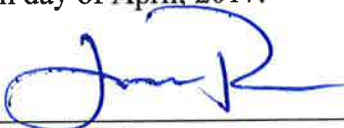
5 **Section 4.** If any word, phrase, clause, paragraph, section or provision of this ordinance
6 or the application hereof to any person or circumstance is held invalid or unconstitutional, such
7 finding shall not affect the other provisions or applications of the ordinance which can be given
8 effect without the invalid or unconstitutional provisions or application, and to this end the
9 provisions of this ordinance are declared severable.

10 **Section 6.** All ordinances or parts of ordinances, in conflict herewith are to the extent of
11 such conflict hereby repealed.

12 **Section 7.** This ordinance shall stand repealed as of 12:00 a.m. on October 8, 2017,
13 unless sooner repealed; provided however, that nothing herein shall prevent re-adoption of an
14 ordinance in the same or similar form for the purpose of extending the moratorium.

15 **PASSED AND ADOPTED** this 6th day of April, 2017.

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LAUREN POE
MAYOR

ATTEST:



KURT M. LANNON
CLERK OF THE COMMISSION

Approved as to form and legality


NICOLLE M. SHALLEY
CITY ATTORNEY

27 This Ordinance passed on first reading this 16th day of March, 2017.

28 This Ordinance passed on second reading this 6th day of April, 2017.



CITY OF GAINESVILLE

Clerk of the Commission

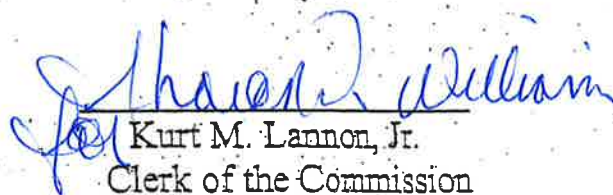
#160798

I hereby certify that a true record of this ordinance was made by me in

Ordinance Book No. _____ on this 10th day of

April, 2017 and that the title of this ordinance was published in

the Gainesville Sun.


Kurt M. Lannon, Jr.
Clerk of the Commission

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NOTICE OF PROPOSED
ENACTMENT OF ORDINANCE
BY CITY COMMISSION,
GAINESVILLE, FLORIDA

Notice is hereby given that the proposed ordinance whose title appears below will be considered for First Reading on the 16th day of March, 2017, at the City Commission meeting, and if then passed on First Reading will be considered for Adoption Reading/Second Reading on the 6th day of April, 2017. The meetings will be read as soon thereafter as may be heard. The meetings are held in the City Commission Auditorium, on the First Floor of City Hall, 200 East University Avenue, Gainesville, Florida. A copy of said ordinance may be inspected by any member of the public at the office of the Clerk of the Commission on the First Floor of City Hall during regular business hours located at 200 East University Avenue, Gainesville, Florida. On the dates mentioned above all interested parties may appear at the meetings and be heard with respect to the proposed ordinance. Persons with disabilities, who require assistance to participate in the meetings, are requested to notify the Equal Opportunity Office at 334-5051 or TDD 334-2069 at least 2 business days in advance.

Ordinance 160798

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Note: All persons are advised that, if a person decides to appeal any decision made at any of these meetings, he or she will need a record of the proceedings and, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Kurt M. Lannon
Clerk of the Commission

Monday, March 6, 2017
Publish Date
#A000906617

PUBLIC NOTICE OF INTENT
TO ISSUE AIR PERMIT
Florida Department of
Environmental Protection
Northeast District Office
Draft Air Permit No. 0010087-063-AC

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LEGALS

Alachua County, Florida

Applicant: The applicant for this project is Argos USA, LLC. The applicant's authorized representative and mailing address is: Chris Horner, Plant Manager, Argos USA, LLC, Argos Newberry Cement Plant, 4000 Northwest CR 23, Newberry, Florida 32669.

Facility Location: Argos USA, LLC operates the existing Argos Newberry Cement Plant, which is located in Alachua County at 4000 Northwest CR 23, in Newberry, Florida.

Project: Air construction permit, which authorizes the modification (redesign) of the existing dust shuttling system authorized under Permit No. 0010087-042-AC to add a single 1,000 short ton (ston) dust bin designated as N-BN01; three new baghouses; and three new small bin vents: 2,500 acfm Emission Point (EPs) N-BF01 and N-FN01, 876 acfm (EP 1N-FR01) and 876 acfm (EP 2N-FR01).

Permitting Authority: Applications for air construction permits are subject to review in accordance with the provisions of Chapter 403, Florida Statutes (F.S.) and Chapters 62-4, 62-210 and 62-212 of the Florida Administrative Code (F.A.C.). The proposed project is not exempt from air permitting requirements and an air permit is required to perform the proposed work. The Permitting Authority responsible for making a permit determination for this project is the Northeast District Office. The Permitting Authority's physical address is: 8800 Baymeadows Way West, Suite 100, Jacksonville, Florida 32256. The Permitting Authority's mailing address is: 8800 Baymeadows Way West, Suite 100, Jacksonville, Florida 32256. The Permitting Authority's phone number is (904) 256-1700.

Project File: A complete project file is available for public inspection during the normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday (except legal holidays), at the physical address indicated above for the Permitting Authority. The complete project file includes the Draft Permit, the Technical Evaluation and Preliminary Determination, the application and information submitted by the applicant (exclusive of confidential records under Section 403.111, F.S.). Interested persons may contact the Permitting Authority's project engineer for additional information at the address and phone number listed above. In addition, electronic copies of these documents are available on the following web site: <https://fddep.dep.state.fl.us/air/emission/aps/default.asp>.

Notice of Intent to Issue Air Permit: The Permitting Authority gives notice of its intent to issue an air construction permit to the applicant for the project described above. The applicant has provided reasonable assurance that operation of proposed equipment will not adversely impact air quality and that the project will comply with all appropriate provisions of Chapters 62-4, 62-204, 62-210, 62-212, 62-296 and 62-297, F.A.C. The Permitting Authority will issue a Final Permit to

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tion for an administrative hearing is filed under Sections 120.569 and 120.57, F.S., or unless public comment received in accordance with this notice results in a different decision or a significant change of terms or conditions.

Comments: The Permitting Authority will accept written comments concerning the proposed Draft Permit for a period of 14 days from the date of publication of the Public Notice. Written comments must be received by the Permitting Authority by close of business (5:00 p.m.) on or before the end of this 14-day period. If written comments received result in a significant change to the Draft Permit, the Permitting Authority shall revise the Draft Permit and require, if applicable, another Public Notice. All comments filed will be made available for public inspection.

Petitions: A person whose substantial interests are affected by the proposed permitting decision may petition for an administrative hearing in accordance with Sections 120.569 and 120.57, F.S. Petitions filed by any persons other than those entitled to written notice under Section 120.60(3) F.S., must be filed within 14 days of publication of the Public Notice or receipt of a written notice, whichever occurs first. Under Section 120.60(3), F.S., however, any person who asked the Permitting Authority for notice of agency action may file a petition within 14 days of receipt of that notice, regardless of the date of publication. A petitioner shall mail a copy of the petition to the applicant at the address indicated above, at the time of filing. A petition for administrative hearing must contain the information set forth below and must be filed (received) with the Agency Clerk in the Office of General Counsel, 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida 32399-3000. Agency_Clerk@dep.state.fl.us, before the deadline. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the approval of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

A petition that disputes the material facts on which the Permitting Authority's action is based must contain the following information: (a) The name and address of each agency affected and each agency's file or identification number, if known; (b) The name, address, any email address, telephone number and any facsimile number of the petitioner, the name, address any email address, telephone number, and any facsimile number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner's substantial interests will be affected by the agency determination; (c) A statement of