

LEGISLATIVE #

160798A

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

1 authority to regulate wireless telecommunication facilities, the City requires an additional period
2 of time to review, study, hold public hearings, and prepare and adopt an amendment or
3 amendments to the City of Gainesville Comprehensive Plan and/or Code of Ordinances to
4 address this issue; and

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

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

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

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

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

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

22 **Section 2.** Imposition of an Additional Time Period of the Temporary Moratorium.

1 The time period of the temporary moratorium, as provided in Section 4. of Ordinance No.
 2 160401, is extended for an additional period of 6 months and ending either at 11:59 p.m. on
 3 October 7, 2017, or the date of the final adoption of ordinance(s) amending the City of
 4 Gainesville Code of Ordinances, relating to construction of wireless communication facilities in
 5 the public rights-of-way within the City, whichever date occurs sooner.

6 **Section 3.** Except as modified and amended, the provisions and terms of Ordinance No.
 7 160401 shall remain in full force and effect.

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

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

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

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19 **PASSED AND ADOPTED** this _____ day of _____, 2017.

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 LAUREN POE
 MAYOR

ATTEST:

Approved as to form and legality

1 KURT M. LANNON
2 CLERK OF THE COMMISSION
3

NICOLLE M. SHALLEY
CITY ATTORNEY

4 This Ordinance passed on first reading this _____ day of _____, 2017.

5 This Ordinance passed on second reading this _____ day of _____, 2017.