



Legislation Text

File #: 160401., **Version:** 1

MORATORIUM ON CONSTRUCTION OF WIRELESS COMMUNICATION FACILITIES IN PUBLIC RIGHTS-OF-WAY (B)

Ordinance No. 160401

An ordinance of the City of Gainesville, Florida, enacting a 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.

The City Commission adopt the proposed ordinance.

The telecommunication industry is in a constant state of emerging technology. As technology improves, there is also a change in the type of infrastructure to support increased demand and capacity to receive and to transmit larger data and voice communications.

The telecommunication industry has begun using systems of a series of small individual antenna ("Small Cells"), or nodes ("Distributed Antenna Systems" or "DAS"), and wireless backhaul networks that are linked to a larger hub site. The City has been contacted by two companies requesting permission to place their wireless communication facilities in the public rights-of-way.

The city has previously adopted several ordinances regulating the location, design, and operation of wireless communication facilities, cell towers, and antennae in the Land Development Code. The Land Development Code does not address or zone the public rights-of-way. The City also requires registration of utilities within the public rights-of-way, after the utilities are permitted, but does not address wireless communication facilities. There is an ordinance dealing with the temporary obstruction of public rights-of-way. And the City's Engineering and Design Manual address the design and location of utilities within the public rights-of-way.

These ordinances were developed prior to this new technology and supporting infrastructure. Because the telecommunication industry is protected by the Federal Communication Commission and by state statute, the City must fairly and equitably regulate the placement of wireless communication facilities in public rights-of-way. The regulation of these new structures involves policy decisions that both support the communication industry while protecting the public rights-of-way. Adoption of the moratorium will allow the Commission time to review its existing ordinances and determine whether to allow these communication facilities within the rights-of-way, and if allowed, what regulations should be imposed.