

**CITY OF CORAL GABLES, FLORIDA**

**RESOLUTION NO. 2017-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA ISSUING A ZONING IN PROGRESS, IN ACCORDANCE WITH ARTICLE 3, "DEVELOPMENT REVIEW", DIVISION 7, "MORATORIUM", SECTION 3-703, "ZONING IN PROGRESS REQUEST" AND 3-704, "CITY COMMISSION ZONING IN PROGRESS RESOLUTION REVIEW AND DECISION" FOR THE CONSIDERATION OF ZONING CODE TEXT AMENDMENTS TO ARTICLE 5, DIVISION 20 "TELECOMMUNICATIONS," ADDRESSING WIRELESS COMMUNICATIONS FACILITIES, AND ARTICLE 8 "DEFINITIONS," TO IMPLEMENT RECENTLY PASSED FLORIDA LEGISLATION KNOWN AS THE "ADVANCED WIRELESS INFRASTRUCTURE DEPLOYMENT ACT" ADDRESSING ACCESS TO THE PUBLIC RIGHTS-OF-WAY FOR WIRELESS COMMUNICATIONS FACILITIES; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Section 2(b), Article VIII of the Florida Constitution and Chapter 166 of the Florida Statutes, the City of Coral Gables possesses the powers to enact ordinances and resolutions to protect the health, safety, and welfare of the City's citizens and residents; and

**WHEREAS**, the City Commission of the City of Coral Gables, Florida determines that it is in the best interest of its residents, businesses and visitors to enact sufficient land use regulations to ensure their health, safety and welfare; and

**WHEREAS**, to protect the public health, safety and welfare of its citizens, the City of Coral Gables has adopted several ordinances establishing regulations for wireless facilities including the location and design of wireless facilities (Article 5, Division 20, Telecommunications, and Article 8, Definitions, of the Zoning Code); and

**WHEREAS**, Section 337.401, Florida Statutes, ("Section 337.401") addresses the authority of municipalities to regulate the placement and maintenance of communication facilities, and utilities, in the public rights-of-way; and

**WHEREAS**, the City adopted the Communications Ordinance set forth in Sections 70-71 et. seq. of the City Code to implement its authority under Section 337.401, Florida Statutes; and

**WHEREAS**, the communication industry is in a constant state of emerging technology that includes the infrastructure required to support the increased demand and capacity to receive and to transmit larger data and voice communications; and

**WHEREAS**, a new network of wireless communications infrastructure has emerged comprised of a series of localized antennas (“Small Cells”), or nodes (“Distributed Antenna Systems” or “DAS”), with wireline and/or wireless backhaul networks (together referred to as “wireless facilities”) that are linked to a larger hub or tower site; and

**WHEREAS**, the City has been contacted by several companies requesting permission to place wireless facilities and infrastructure or to collocate facilities on poles owned by the City within the public rights-of-way controlled by the City; and

**WHEREAS**, the Florida Legislature recently passed HB 687, known as the Advanced Wireless Infrastructure Deployment Act (“Act”), which became effective July 1, 2017; and

**WHEREAS**, the Act amends Section 337.401 to provide for access to public rights of way and collocation on City-owned poles for certain various wireless facilities, including small cell facilities, equipment facilities, and micro cell facilities, and for wireless support structures, all as defined in the Act, and provides procedures and regulations for local governments to process applications for and to regulate such facilities; and

**WHEREAS**, the City intends to study the impact of the Act and to propose amendments to the Zoning Code and if necessary, the Code of Ordinances, to adopt provisions addressing such facilities consistent with the Act; and

**WHEREAS**, additionally since the adoption of the City’s Zoning Code addressing

wireless facilities, the Federal Communication Commission adopted new regulations addressing municipal processing of applications for collocation of wireless facilities on certain existing towers and base stations; and

**WHEREAS**, these changes in federal regulations, emerging technologies, and the new Act require a careful review by the City of its policies and ordinances associated with regulation of cell towers, antennae, wireless support structures, and wireless facilities; and

**WHEREAS**, a temporary moratorium on the processing of applications for, and the issuance of permits, site plan approvals or any other official action of the City of Coral Gables permitting or having the effect of allowing the installation of wireless facilities in the public rights-of-way within the City's control will maintain the status quo and allow time to review, study, hold public hearings, and prepare and adopt an amendment or amendments to the City of Coral Gables Code of Ordinances and/or Zoning Code; and

**WHEREAS**, the City Clerk provided notice to the Secretary of State of this proposed Resolution; and

**WHEREAS**, the City Commission on July 11, 2017, approved the Zoning in Progress Resolution, for a period not to exceed the first regularly scheduled City Commission meeting after 120 days, unless further extended, and ordered that Staff report to the Planning and Zoning Board and City Commission with a report, proposed Zoning Code Text Amendment, and recommendations related to a potential moratorium, within 90 days, in accordance with Zoning Code Section 3-704;

**WHEREAS**, upon adoption of the Zoning in Progress Resolution, the City Clerk shall publish this adopted resolution in a newspaper of general circulation published in the City of Coral Gables, or in Miami-Dade County, Florida, within ten (10) days following the date of adoption, in accordance with Zoning Code Section 3-704; and

**WHEREAS**, the City Commission for the City of Coral Gables, Florida finds and

declares that this resolution is in the best interest of the public health, safety and welfare of the citizens and residents of the City of Coral Gables, Florida and that it advances a significant and important governmental interest.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF CORAL GABLES THAT:**

**SECTION 1.** The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this resolution upon adoption hereof.

**SECTION 2. Purpose.**

A. The purpose of this resolution is to enable the City of Coral Gables sufficient time to review, hold public hearings and adopt an amendment or amendments to the City of Coral Gables General Ordinances and/or Code of Ordinances and/or Zoning Code, relating to procedures to address applications for and regulations pertaining to wireless facilities consistent with Section 337.401, as amended, and Federal regulations. During the term set forth in this Resolution, the City staff is directed not to certify the effectiveness of a registration for wireless facilities in the public rights-of-way, nor to approve or to take any action that has the effect of approving any application or issue any permits having the effect of authorizing the installation or colocation of wireless facilities within the public rights-of-way, except as provided in this Resolution, or as may otherwise be required by applicable law. To the extent necessary to comply with applicable law, including but not limited to the Act, the City Staff is authorized to reject a registration or to deny an application for wireless facilities in the public rights-of-way consistent with the Act.

B. It is further the purpose of this resolution to fulfill the City’s constitutional charge and statutory obligations to protect and preserve the public health, safety and welfare of the

citizens of the City of Coral Gables, regarding whether wireless facilities should be permitted within the public rights-of-way; and if permitted within the public rights-of-way, the types of regulations to be imposed upon placement of such facilities; and thus defer official government action until the City of Coral Gables has properly held public hearings and adopted amendments to the City of Coral Gables General Ordinances and/or Code of Ordinances and/or Zoning Code, as necessary.

C. To fulfill the City's obligations to continue uninterrupted provision of public works, fire safety, law enforcement, emergency management, emergency medical services, and city utilities, it is clarified that this moratorium will not apply to the construction, installation, maintenance and replacement of communications facilities within the public rights-of-way that are strictly for governmental purposes.

**SECTION 3. Definitions.**

*"Wireless Facility"* means any equipment or facility used for the transmission or reception of wireless communications and located in public rights-of-way. This term includes but is not limited to wireless support structures, equipment facilities, antennas, cabling, regular and backup power supplies, and comparable equipment, regardless of technological configuration including DAS and small cell networks. For purposes of this Ordinance, the term shall include communication towers and all wireless communications facilities as defined in Section 365.172(3)(gg), Florida Statutes, or facilities to provide wireless communication services as listed at <https://www.fcc.gov/general/wireless-services>.

*"Governmental Purposes"* means, but is not limited to public works, fire safety, law enforcement, emergency management, emergency medical services or municipal utility operations.

**SECTION 4. Imposition of Zoning in Progress.**

A. Zoning in Progress shall be in effect for any requests or applications for registration, permit, authorization or any other official action of the City having the effect of permitting or allowing the construction of wireless facilities in the public rights-of-way controlled by the City. During the period of time that the Planning and Zoning Board and City Commission are considering a moratorium ordinance, no registrations, permits or development orders of any kind shall be issued if issuance may result in the installation within the City controlled public rights-of-way of wireless facilities, except as may be required by applicable law. To the extent such a request or application is submitted, the City staff is authorized to take action to reject such application during the term of this Zoning in Progress within such time frame as may be required by applicable law.

B. During the term hereof, no Zoning Compliance Permit may be issued by the City of Coral Gables which would authorize the construction of a wireless facility within the City's controlled public rights-of-way.

C. The imposition of the moratorium is not intended to affect nor does it affect wireless facilities serving strictly Governmental Purposes.

**SECTION 5. Term.**

The Zoning in Progress moratorium imposed by this resolution is temporary and, unless dissolved earlier by the City, shall automatically dissolve on the date of the first regularly scheduled City Commission meeting after 120 days from the effective date of this resolution, unless extended in accordance with applicable law. This moratorium may be reasonably extended, if necessary, by resolution of the City Commission.

**SECTION 6. Early Termination.**

The moratorium imposed by this resolution may terminate earlier upon the passage of a

moratorium ordinance or the passage of an ordinance regulating registration and permitting of wireless facilities in the public rights-of-way controlled by the City, provided specific language terminating the moratorium is contained within said enacted ordinance.

**SECTION 7. Effective Date.**

That this resolution shall become effective upon the date of its passage and adoption herein.

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF JULY, A.D.,  
2017.

(Moved:)  
(Yeas: )  
(Vote )  
(Agenda Item: )

APPROVED:

RAÚL VALDÉS-FAULI  
MAYOR

ATTEST:

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

WALTER J. FOEMAN  
CITY CLERK

CRAIG E. LEEN  
CITY ATTORNEY