Ordinance 2017-32

AN ORDINANCE OF THE CITY OF ST. PETE BEACH, FLORIDA ESTABLISHING A 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 LEGISLATIVE FINDINGS, INTENT AND PURPOSE; PROVIDING FOR CONFLICTS, SEVERABILITY, CONSTRUCTION AND PUBLICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Chapter 166 of the Florida Constitution, the City of St. Pete Beach 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 purposed 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 is currently reviewing 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 creates 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 City Commission and 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 City Commission directs the City staff to expeditiously study and develop a comprehensive strategy for the Commission's consideration, along with amendments to the City of St. Pete Beach Code of Ordinances and Land Development Code to ensure compliance with State and Federal law relating to wireless communication facilities and telecommunication towers and antennas in the public right-of-way for a period not to exceed one hundred and twenty (120) days from the expiration of Ordinance 2017-15.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH FLORIDA, HEREBY ORDAINS:

SECTION 1. Recitals. The above recitals ("Whereas" clauses) are hereby adopted as legislative findings, purpose and intent of the City Commission.

SECTION 2. The City Commission 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 right-of-way for a period not to exceed one hundred and twenty (120) days, in order to allow City staff time to undertake 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 expiration of Ordinance 2017-15, unless the City Commission rescinds or extends the moratorium by subsequent ordinance.

FIRST READING:	**11/28/2017**
PUBLISHED:	**12/01/2017**
SECOND READING:	**12/12/2017**
PUBLIC HEARING:	**12/12/2017**

CITY COMMISSION, CITY OF ST. PETE BEACH, FLORIDA.

Alan Johnson, Mayor

I, Rebecca C. Haynes, City Clerk of the City of St. Pete Beach, Florida, do hereby certify that the foregoing Ordinance was duly adopted in accordance with the provisions of applicable law this **12th** day of **December**, 2017.

Rebecca C. Haynes, City Clerk

APPROVED AS TO LEGAL FORM AND CORRECTNESS:

Andrew Dickman, City Attorney