

ORDINANCE NO. 2017-2

**CITY OF OSSEO
HENNEPIN COUNTY**

**AN ORDINANCE ESTABLISHING A MORATORIUM ON THE CONSIDERATION OF
WIRELESS TELECOMMUNICATIONS FACILITIES AND ANTENNAS IN THE CITY
AND DIRECTING THAT A PLANNING STUDY BE CONDUCTED**

THE CITY OF OSSEO SO ORDAINS:

Section 1. Background

1.01. The 2017 Legislature amended Minnesota's Telecommunications Right-of-Way User statutes to address small wireless facilities and the support structures on which those facilities may attach.

1.02. The Telecom ROW Law allows cities to require telecommunications right-of-way users to get a permit for use of the right-of-way and establishes a permitting structure specifically for the siting of small wireless facilities.

1.03. The Law prohibits cities from adopting a moratorium with respect to filing, receiving, or processing applications for right-of-way or small wireless facility permits; however, for cities that did not have a right-of-way ordinance in place on or before May 18, 2017, this prohibition on moratoria does not take effect until January 1, 2018.

1.04. The City of Osseo did not have a right-of-way ordinance in place on or before May 18, 2017.

1.05. The installation of facilities in the public right-of-way has the potential to negatively impact the health, safety, and welfare of the community if not properly regulated.

1.06. The City's consultants have recommended that the City study and engage in deliberation of all of the issues pertaining to management of the public right-of-way and the potential for the development of small cell sites in the City and to evaluate the need for standards to regulate these facilities.

1.07. The City Council has determined a need to undertake a study to determine the appropriate permitting and land use controls, consistent with the state law, for wireless telecommunications facilities, antennas, and other structures in the public right-of-way.

1.08. Upon completion of the study, the City Council, together with such city commissions as the Council deems appropriate or as may be required by law, will consider the adoption of appropriate right-of-way official controls.

1.09. Minn. Stat. § 462.355, subd. 4, allows the City to adopt an interim ordinance for the purpose of protecting the planning process and the health, safety, and welfare of its citizens.

Section 2. Findings

2.01. The City of Osseo has the authority, pursuant to common law and Minnesota Statutes, to regulate the installation of utilities and telecommunications right-of-way users within the public right-of-way.

2.02. The Council finds that it is necessary to conduct planning studies to determine the appropriate permitting and land use controls, consistent with state law, that should apply to wireless telecommunications facilities and antennas in the public right-of-way and to protect the planning process and the health, safety, and welfare of its citizens.

2.03. The purpose of the study to be conducted includes, but is not limited to, determining the appropriate permitting and licensing standards, and land use and development standards that should apply to wireless telecommunications facilities and antennas in the public right-of-way and establishing an appropriate ordinance.

2.04. The Council finds that there is a need to adopt a City-wide moratorium ordinance while the study referenced above is conducted.

2.05. The Council finds that this moratorium applies to, but is not limited to, the following types of land use applications: right-of-way permits, antenna permits, building permits, and electrical permits for installation, construction, or operation of wireless telecommunications facilities and antennas in the public right-of-way.

Section 3. Planning Study; Moratorium

3.01. A study is authorized to be conducted by City staff and consultants, to be followed by consideration of an ordinance by the Council and other city commissions as required by law or directed by the Council.

3.02. Pending completion of the study and adoption of an ordinance, a moratorium is established on the issuance of City approvals for or related to the installation, construction, or operation of wireless telecommunications facilities and antennas in the public right-of-way.

3.03. During the period of the moratorium, applications for any such approvals identified in section 3.02 shall not be accepted by the City nor shall the Planning Commission or Council consider or grant approval of any such application.

3.04. The moratorium established by this Ordinance shall apply to any application pending as of the date of this Ordinance. Any application submitted to which the moratorium applies shall be denied unless the application includes a specific request that it be excepted from the moratorium, in which case the City staff shall submit the application to the Council for consideration of granting an exception.

3.05. The Council may approve exceptions to this moratorium for an application if the Council, in its sole discretion, determines that the approval being sought will not interfere with the purposes for which this moratorium was adopted.

Section 4. Enforcement. The City may enforce this Ordinance by mandamus, injunction, or other appropriate civil remedy in any court of competent jurisdiction.

Section 5. Term. Unless earlier repealed by the City Council, this Ordinance shall remain in effect for a period of one year after its effective date.

Section 6. This Ordinance shall take effect and be in force from and after its passage and publication according to law.

Adopted by the City Council this ____ day of _____, 2017.

ATTEST:

Mayor

City Clerk

First reading: _____, 2017

Second reading and adoption: Second reading waived by unanimous vote of City Council (City Code § 30.24(A))

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