

A RESOLUTION EXPRESSING OPPOSITION TO THE FEDERAL COMMUNICATIONS COMMISSION'S PROPOSED DECLARATORY RULING AND THIRD REPORT AND ORDER: STREAMLINING DEPLOYMENT OF NEXT GENERATION WIRELESS INFRASTRUCTURE AND DECLARING IT AN EMERGENCY.

WHEREAS, small cell technology, a tool to improve communication accessibility for the general population and businesses, requires extensive intrusion into the right-of-ways of municipalities across the country; and

WHEREAS, the municipalities of Ohio recognize the value of small cell technology, and want to encourage its implementation, as long as it is done in a safe and prudent manner; and

WHEREAS, the municipalities of Ohio, the Ohio General Assembly, and the major telecommunication companies spent eight months of negotiating and developing regulations to govern the placement, installation, and maintenance of small cell facilities as well as a fair fee structure to cover such placement, installation, and maintenance, which resulted in House Bill 478 and codified in the Ohio Revised Code, Chapter 4939; and

WHEREAS, those regulations were designed to allow the installation of small cell facilities throughout the municipalities of Ohio, but at the same time provided safeguards that protected each community's aesthetic standards and public infrastructure as well as their residents' safety; and

WHEREAS, the Federal Communications Commission ("FCC") now has before it a proposed Declaratory Ruling and Third Report and Order, titled Streamlining Deployment of Next Generation Wireless Infrastructure; and

WHEREAS, this report proposes new regulations that are contrary to the those now contained in the Ohio Revised Code; and

WHEREAS, the provisions in this proposal will greatly negatively impact the ability of municipalities to protect the health, safety and welfare of their residents by allowing placement of small cell facilities on any publicly-owned structure in the right-of-way, regardless of whether that structure already has wireless equipment on it, or whether it has been zoned for placing that equipment, or even if they can support such facilities; and

WHEREAS, these proposed regulations will permit taller small cell facilities and reduce the municipalities' ability to include aesthetic requirements on the placement and installation of small cell facilities; and

WHEREAS, those proposed regulations further include a “one size fits all” approach to review of small cell facility installation applications, without regard to a communities’ size and resources that impacts its abilities to properly and timely review such applications; and

WHEREAS, the City of Brookville objects to this proposal as counter-productive to the safe and effective installation of small cell facilities; and

WHEREAS, the City of Brookville believes that the regulations codified in the Ohio Revised Code are both fair and effective and should remain in place rather than superseded by regulations that will fail to protect the health, safety and welfare of their residents and expose wireless infrastructure providers to unnecessary liability.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BROOKVILLE DOES HEREBY RESOLVE THAT:

Section 1. The City Council hereby declares its opposition to the Federal Communications Commission’s proposed Declaratory Ruling and Third Report and Order regarding state and local governance of small cell wireless infrastructure deployment known as Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84 and WT Docket No. 17-79.

Section 2. The City Council hereby urges the FCC to allow comprehensive state legislation, such as that codified in the Ohio Revised Code, Chapter 4939, govern the placement, installation, and maintenance of small cell facilities, as those regulations are reflective of the needs, issues, conditions, and concerns of that state’s communities and constituents.

Section 3. That a copy of this Resolution be filed with the FCC and forwarded to U.S. Representatives Michael Turner and to U.S. Senators Robert Portman and Sherrod Brown.

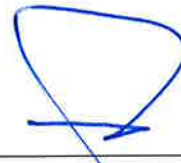
SECTION 4: This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare, for the reason that it must be passed immediately to timely submit it the Federal Communications Commission and federal elected representatives prior to the written comment period ending and action being taken by the FCC that will preempt local regulation. Therefore, pursuant to the Charter of the City of Brookville, this Resolution takes effect immediately upon passage by at least two-thirds of the members of City Council.

Passed this 18th day of September 2018.

Attest:



MEGHAN WHEELER
CLERK OF COUNCIL



DAVID E. SEAGRAVES
MAYOR


No. _____

Passed _____

Yr. _____

CERTIFICATE

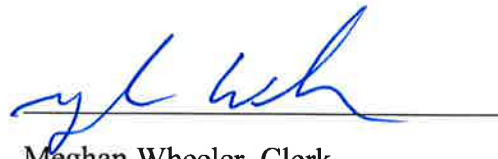
The undersigned, Clerk of the City of Brookville, does hereby certify that the foregoing is a true and correct copy of Resolution 18-15, passed by the Council of the City of Brookville, Ohio, on the 18th day of September, 2018.



Meghan Wheeler, Clerk

CERTIFICATE OF POSTING

The undersigned, Clerk of the City of Brookville, Ohio, hereby certifies that the foregoing Resolution No. 18-15 was posted at the City Building, U.S. Post Office and the Brookville Branch of the Montgomery County Public Library, Brookville, Ohio, on the 19th day of September, 2018 to the 19th day of October, 2018, both days inclusive.



Meghan Wheeler, Clerk

