

ORDINANCE NO. 9-18

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF TEQUESTA, FLORIDA, IMPOSING A MORATORIUM ON THE ACCEPTANCE OF NEW APPLICATIONS, AND THE ISSUANCE OF ANY VILLAGE PERMITS OR APPROVALS CURRENTLY OUTSTANDING AND REQUIRED FOR PENDING APPLICATIONS, FOR THE INSTALLATION OF TELECOMMUNICATIONS EQUIPMENT AND FACILITIES WITHIN THE VILLAGE AS SET FORTH IN THE TELECOMMUNICATIONS ACT OF 1996, SEC. 337.401 *FLORIDA STATUTES*, CHAPTER 63 ART. II OF THE VILLAGE OF TEQUESTA CODE OF ORDINANCES, AND CHAPTER 78, ZONING, OF THE VILLAGE OF TEQUESTA LAND DEVELOPMENT CODE; PROVIDING THAT SAID MORATORIUM SHALL BE IN EFFECT FOR A PERIOD OF ONE YEAR; DIRECTING VILLAGE STAFF TO UNDERTAKE A COMPREHENSIVE REVIEW OF THE VILLAGE'S EXISTING TELECOMMUNICATIONS EQUIPMENT AND FACILITIES REGISTRATION AND PERMITTING CODES WITH AN EMPHASIS ON THE PROTECTION OF RESIDENTIAL PROPERTIES, AND COMPLIANCE WITH FEDERAL AND STATE REQUIREMENTS; PROVIDING FOR CONTINUATION OR TERMINATION OF SAID MORATORIUM; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the telecommunications industry is regulated by both federal and state laws, which laws provide for the adoption of reasonable local rules that allow local governments to regulate the placement of telecommunications equipment and facilities within rights-of-way and on other property within their jurisdictions; and

WHEREAS, state law has recently changed in response to telecommunications industry needs, which changes directly impact current Village code; and

WHEREAS, the Village's Code of Ordinances and Land Development Regulations contain certain sections and provisions which, as written, apply to such applications; but which, upon review, may be internally inconsistent and/or in conflict with state and federal laws; and

WHEREAS, the Village Council has been made aware of both the state of the Village's code, and the above referenced changes to state law. Further, the Village Council has been made aware of factual data indicating the proliferation of telecommunications facilities in other jurisdictions, as well as the issues and concerns associated therewith, including perceptions of health and safety implications and diminishment of residential property values; and

WHEREAS, Village residents, Village staff and Village officials all desire to ensure that the Village of Tequesta addresses these concerns and perceptions such that the public health, safety and welfare is protected; and

WHEREAS, the Village Council believes that a one year moratorium on the acceptance of new applications and the issuance of any Village permits or approvals currently outstanding and required for pending applications to install telecommunications facilities is necessary in order to maintain the status quo in the Village and simultaneously allow Village staff to conduct a comprehensive review of the Village's existing codes to determine its compliance with federal and state laws and to determine what revisions are required to provide internal consistency, best protect the residents of the Village as permitted by law, and to ensure that Village code provides for a thorough and efficient application process for applicants; and

WHEREAS, the Village Council has determined that the enactment of this moratorium is in the best interest of the Village and is necessary in order to protect the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF TEQUESTA, FLORIDA, AS FOLLOWS:

Section 1: The foregoing recitals are true and correct, are hereby made a specific part of this Ordinance.

Section 2: There is hereby imposed a moratorium with respect to the acceptance of new applications, and the issuance of any Village permits or approvals currently outstanding and required for pending applications, for the installation of telecommunications equipment and facilities within the Village as set forth in the Telecommunications Act of 1996, sec. 337.401 *Florida Statutes*, Chapter 63 Art. II of the Village of Tequesta Code of Ordinances, and Chapter 78, Zoning of the Village of Tequesta Land Development Code.

Section 3: During the term of the moratorium, Village staff shall conduct a comprehensive review of the Village's existing telecommunications equipment and facilities registration and permitting codes to ensure internal consistency, determine their compliance with federal and state laws, to determine whether revisions are required to best protect the residents of the Village and specifically determine how to best protect residential neighborhoods from adverse impacts associated with installation of telecommunications facilities in residential rights-

of-way as permitted by law, and to ensure that Village code provides for a thorough and efficient application process for applicants..

Section 4: During the term of the moratorium, it shall be unlawful for any person or entity to install telecommunications equipment and facilities on any property within the Village or within any of the public rights-of-way under the jurisdiction of the Village or delegated to the Village. Nothing contained in this ordinance shall be deemed to prevent or prohibit the acceptance and processing of new applications related to the maintenance, repair or removal of any telecommunications facility installed and existing prior to the adoption of this ordinance, or the issuance of permits for the same.

Section 5: This moratorium shall remain in full force and effect for a period of one year from adoption of this ordinance. This moratorium shall automatically expire at the conclusion of said one year period unless terminated sooner by the Village Council at a public hearing called for such purpose. The Village Council may, by ordinance, and upon the adoption of findings of fact justifying same, extend the term of this moratorium prior to its automatic expiration.

Section 6: Violations of this moratorium may be remedied through any means available to the Village, both in law and at equity.

Section 7: All ordinances or Code provisions in conflict herewith are hereby repealed.

Section 8: The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby. In the event of a subsequent change in applicable law, so the provision which had been held invalid is no longer invalid, the provision shall thereupon return to full force and effect without further action by the Village and shall thereafter be binding under this Ordinance.