

0020.150.020
RJM/
05/18/98

ORIGINAL

ORDINANCE NO. 1981

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, ADOPTING AN IMMEDIATE MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR USE PERMITS, TELECOMMUNICATIONS FACILITY PERMITS, BUILDING PERMITS, RIGHT-OF-WAY USE AUTHORIZATIONS AND FRANCHISES FOR WIRELESS COMMUNICATIONS FACILITIES LOCATED WITHIN RESIDENTIAL ZONING DISTRICTS, TO BE EFFECTIVE FOR A PERIOD OF SIX MONTHS, SETTING A DATE FOR A PUBLIC HEARING ON THE MORATORIUM, AND DECLARING AN EMERGENCY.

WHEREAS, the Telecommunications Act of 1996 (Pub. L. No. 104-104, 110 Stat. 56, 31-136, hereinafter the "Act",) was designed to remove regulatory barriers and encourage competition among all types of communications companies; and

WHEREAS, the Act ratified the authority of local government to regulate the construction and modification of wireless communications service facilities, but also limits local governments' authority in certain respects; and

WHEREAS, recent legal and technological developments related to wireless communications services have caused a dramatic increase in the demand for siting wireless facilities within the City; and

WHEREAS, the City, through Ordinance No. 1930, adopted zoning standards applicable to wireless communication facilities; and

WHEREAS, in its review and approval of applications for the construction of wireless communications facilities since the adoption of Ordinance No. 1930, the City has discovered that certain provisions in said Ordinance do not achieve the City's land use and environmental objectives in residentially zoned areas of the City as previously expected; and

WHEREAS, the City needs to review its codes and ordinances related to wireless communication facilities and adopt amendments to more adequately protect residentially zoned areas of the City from the aesthetic, visual, and noise impacts associated with said facilities; and

WHEREAS, state planning statutes permit the City to impose moratoria in exceptional circumstances; and

WHEREAS, the City should impose a moratorium barring the acceptance of applications relating to permits or approvals for wireless communication facilities located within residentially zoned portions of the City until the necessary code revisions are complete; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Moratorium Imposed. The City Council hereby imposes a moratorium on the establishment, location, permitting or franchising of wireless communication facilities, as said term is defined in Section 20A.20.230 of the Redmond Municipal Code and Community Development Guide, within all residentially zoned areas of the City (i.e., within the RA-5, and R-1 through R-30 zones), regardless of whether said facilities are located upon private or public property or the public streets. During the term of this moratorium (unless earlier terminated by the City Council by ordinance), the City will not accept applications for any building permit,

telecommunication facility permit, right-of-way use authorization, or franchise for wireless communications facilities within such residentially zoned areas. Provided, however, that this moratorium shall not apply to any pending applications for the foregoing permits and approvals. Provided further, that this moratorium shall not apply to any proposed wireless communication facility for which the City has already approved a telecommunication facility permit, franchise, right-of-way use authorization, or lease of City-owned property.

Section 2. Purpose. The purpose of this moratorium is to allow the City adequate time to comprehensively study its existing regulations related to wireless communication facilities, determine whether the City's existing ordinances and codes are consistent with the City's objective of protecting residentially zoned areas from the aesthetic, visual, and noise impacts associated with wireless communication facilities, develop new ordinances to amend inconsistencies and/or cover situations not addressed by existing regulations, and to ensure that city ordinances keep pace with changing business and technology trends in the provision of wireless communications services.

Section 3. Duration of Moratorium. The moratorium imposed by this Ordinance shall be in effect for a period of six months, beginning on the date of the adoption of this Ordinance. During this period, the Planning Commission is directed to develop a work plan to study the issue as it relates to applications approved under the Redmond Community Development Guide. The Public Works Director and Planning Director are directed to develop a work plan to study the issue as it relates to applications for the use and occupation of city streets, rights-of-way, and other City property by wireless communications carriers and providers. The Planning Commission, the Planning Director, and the Public Works Director

shall develop recommendations for the City's future action to address the aesthetic, visual, and noise impacts of wireless communication facilities within residentially zoned areas of the City, which may include proposed regulations for said facilities. The Planning Commission, Planning Director, and Public Works Director shall return its work plan to the City Council at least two weeks prior to the date of the public hearing scheduled in Section 4 of this Ordinance. In addition, the Planning Commission, Planning Director, and Public Works Director shall return their final recommendations to the City Council within 120 days of the effective date of this Ordinance.

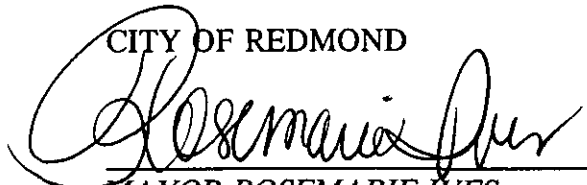
Section 4. Public Hearing on Moratorium. Pursuant to RCW 36.70A.390 and RCW 35A.63.220, the City Council shall hold a public hearing on this moratorium on July 7, 1998. Immediately after the public hearing, the City Council shall adopt findings of fact on the subject of this moratorium, and either justify its continued imposition or cancel the moratorium.

Section 5. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 6. Declaration of Emergency. The City Council hereby declares that an emergency exists necessitating that this ordinance take effect immediately upon passage by City Council. Without an immediate moratorium on the City's acceptance of permit applications under the building, zoning and telecommunications Codes, processing of such applications by the City could occur under regulations that are inconsistent with the City's legitimate policy of

protecting residentially zoned areas from the aesthetic, visual, and noise impacts associated with wireless communication facilities. Wireless communications facilities that are incompatible with adjoining land uses could be permitted, since current City regulations have not anticipated the types of structures that are being constructed in response to rapid changes in wireless communications technology and law. Therefore, the City's moratorium must be imposed immediately to prevent any development rights from vesting and preserve the City's ability to process applications under valid codes.

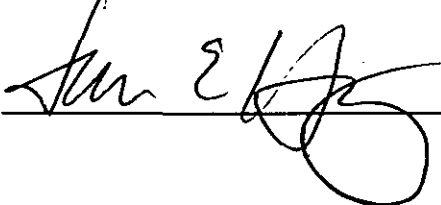
Section 7. Publication/Effective Date. This Ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum. Publication requirements may be satisfied by publication of an approved summary thereof consisting of the title. This Ordinance shall be effective immediately upon passage.

CITY OF REDMOND

MAYOR ROSEMARIE IVES

ATTEST/AUTHENTICATED:


CITY CLERK, BONNIE MATTSON

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

By: 

FILED WITH THE CITY CLERK: May 19, 1998
PASSED BY THE CITY COUNCIL: May 19, 1998
SIGNED BY THE MAYOR: May 19, 1998
PUBLISHED: May 23, 1998
EFFECTIVE DATE: May 19, 1998
ORDINANCE NO. 1981