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ORIGINAL

**ORDINANCE NO. 1988**

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, ADOPTING FINDINGS OF FACT TO JUSTIFY THE CONTINUED IMPOSITION OF THE MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR USE PERMITS, BUILDING PERMITS, TELECOMMUNICATIONS FACILITY PERMITS, RIGHT-OF-WAY USE AUTHORIZATIONS, AND FRANCHISES FOR WIRELESS COMMUNICATION FACILITIES LOCATED WITHIN RESIDENTIAL ZONING DISTRICTS ESTABLISHED BY ORDINANCE NO. 1981; EXTENDING THE EXPIRATION DATE FOR SAID MORATORIUM TO MAY 18, 1999; AND APPROVING A WORK PLAN, ALL AS AUTHORIZED AND REQUIRED BY RCW 36.70A.390 AND RCW 35A.63.220.

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WHEREAS, on May 19, 1998, the City Council imposed a six month moratorium on the City's acceptance and approval of applications for use permits, building permits, telecommunications facility permits, right-of-way use authorizations, and franchises for wireless communication facilities located within residential zoning districts, all as provided in Ordinance No. 1981; and

WHEREAS, RCW 36.70A.390 and RCW 35A.63.220 require that the City Council hold a public hearing on the moratorium within 60 days of its adoption, and that immediately thereafter, the City Council must adopt findings of fact to justify the continued imposition of the moratorium; and

WHEREAS, under the City's schedule for development regulation review and amendment, it is anticipated to take longer than six months to review and update the City's

regulations related to siting wireless communications facilities in residential areas; and

WHEREAS, on July 7, 1998, the City Council held a public hearing on the telecommunications moratorium during which time it heard testimony from the public and City staff; NOW, THEREFORE

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

Section 1. Findings. As required by RCW 36.70A.390 and RCW 35A.63.220, the City Council hereby adopts the following findings of fact to support the continued imposition of the City's moratorium on the acceptance and approval of applications for use permits, building permits, telecommunications facility permits, right-of-way use authorizations, and franchises for wireless communication facilities located within residential zoning districts, all as provided in Ordinance No. 1981:

A. Background.

1. Congress has adopted the Telecommunications Act of 1996 (hereinafter the "Act") in order to encourage the development of high-technology communications systems through increased competition among communications companies.

2. The Act provides for the removal of regulatory barriers, rate deregulation and relaxation of certain anti-trust provisions in an attempt to achieve this goal.

3. The Act is anticipated to have, and has had, a significant effect on the manner in which wireless communications services are delivered in the City.

4. The Act contains numerous provisions which directly affect local zoning authority and public right-of-way management.

5. The Act will likely place additional demands on the

use of the City's public rights-of-way and private property in all areas of the City, including residentially zoned areas.

6. Recent developments in telecommunications technology and regulatory actions by the Federal Communications Commission have resulted in the deployment of new wireless telecommunications networks throughout the Northwest.

7. Deployment of new wireless telecommunications networks could have dramatic impacts on land use patterns, aesthetics, and the public health, safety, and welfare due to the number of new wireless facilities and service providers in the Northwest.

8. The City currently has regulations which comprehensively regulate the use, leasing and permitting of the public rights-of-way and other public property specifically for wireless telecommunications purposes.

9. The City's current zoning regulations contain provisions that may not adequately protect residentially zoned areas of the City from the visual, aesthetic, and noise impacts associated with wireless communication facilities in that the prioritized siting list in Section 20D.170.45-030(3)(b) of the Redmond Community Development Guide and Redmond Municipal Code may encourage siting of wireless communications facilities within residential areas without sufficient performance standards.

10. Under the City's development regulation review and amendment process and schedule, it will not be possible to adopt updated regulations within six months.

B. Purpose. The purpose of this moratorium is to allow the City adequate time to comprehensively study the Act and existing ordinances and codes and to develop new ordinances to amend the provisions thereof which relate to siting of wireless communications facilities in residentially zoned areas of the City.

C. Specific Issues to be Studied. The City Council hereby directs the Planning Commission and City staff to pay special attention to the following issues, and as necessary, develop/recommend new draft regulations or draft amendments of existing regulations to conform with the Telecommunications Act generally following the work plan adopted in Section 3, which may

be amended from time to time with approval of the City Council.

1. The establishment of a City policy concerning wireless communications facilities, including the terms and conditions under which wireless communications providers will be allowed to locate their facilities in residentially zoned areas of the City, including locating such facilities on existing utility poles and other public facilities.

2. The establishment of clear City guidelines for the exercise of City zoning authority with respect to the location of wireless communications facilities in residentially zoned areas of the City.

3. Minimizing unnecessary City regulation of wireless communications providers and facilities.

4. Assuring that all wireless communications carriers constructing facilities within the City comply with the ordinances, rules and regulations of the City.

5. Assuring that the City can continue to fairly and responsibly protect the public health (as limited by the Telecommunications Act of 1996), safety and welfare.

6. Enabling the City to discharge its public trust, consistent with rapidly evolving federal and state regulatory policies, industry competition and technological development.

D. The City Council hereby directs the Planning Commission and City staff to conduct meetings and hearings, and to consult with wireless communications providers and the public before or after new regulations are developed in order to learn whether certain regulations adequately protect the residential areas of the City and whether such regulations cause any unnecessary hardship on the provision of wireless communications services in the City.

Section 2. Moratorium to Remain in Effect. Except as limited in this Section, the moratorium on the acceptance and issuance of applications for use permits, building permits, telecommunications facility permits, right-of-way use authorizations, and franchises for wireless communication facilities located within residential zoning districts adopted by Ordinance No.

1981 of the City of Redmond shall remain in effect for a period of 12 months from the date said ordinance was adopted (i.e., until May 18, 1999) or until the Council completes adoption of necessary code amendments related to wireless communications facilities, whichever is sooner.

Provided, however, that the moratorium adopted by Ordinance No. 1981 shall not apply to:

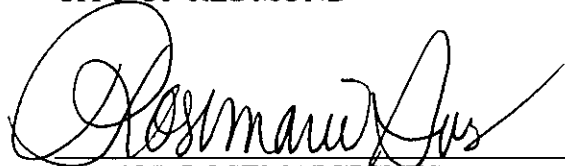
- A. Applications pending prior to May 18, 1998. "Pending" means a complete application, including the payment of any required fees, was filed with the City.
- B. Applications for construction permits pursuant to RMC Section 12.14.1030.
- C. Any permits or approvals necessary to construct facilities authorized by an existing franchise agreement, right-of-way use authorization, or similar agreement.

Section 3. Approval of Work Plan. The work plan formulated by the staff and the Planning Commission and attached hereto as Exhibit A is hereby adopted and incorporated herein by this reference as if set forth in full.

Section 4. 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 5. Publication/Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum. This ordinance shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

CITY OF REDMOND

  
MAYOR ROSEMARIE IVES

ATTEST/AUTHENTICATED:

  
CITY CLERK, BONNIE MATTSON

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY:   
JAMES E. HANEY

FILED WITH THE CITY CLERK:  
PASSED BY THE CITY COUNCIL:  
PUBLISHED:  
EFFECTIVE DATE:  
ORDINANCE NO. 1988

June 24, 1998  
July 7, 1998  
July 11, 1998  
July 16, 1998

# EXHIBIT A

## Planning Commission Recommendation of Work Plan Outline For Wireless Communication Facilities within Residential Zoning Districts

July 7, 1998

The City of Redmond has seen a dramatic increase in the demand for siting wireless communication facilities within the City related to recent legislation, legal interpretations, and technological developments. In the review and approval of applications for the construction of wireless communication facilities since the adoption of Ordinance 1930 (Telecommunication Facilities, RCDG Section 20D.170.45), it has been determined that certain provisions in the ordinance do not achieve environmental objectives within residentially zoned areas of the City. Concerns related to aesthetic, visual and noise impacts have been identified.

Because of these concerns, the City Council took action on May 19, 1998 to adopt an emergency moratorium Ordinance No. 1981 that prohibits the acceptance of all applications for wireless communication facilities within residential zoning districts, (i.e., within RA-5 and R1 through R-30 zones), for a period of six months. This action requires the Planning Department, Public Works Department, and the Planning Commission to:

1. Develop a Work Plan to study the issue as it relates to the processing of applications per existing Redmond Community Development Guide (RCDG) regulations, including the use and occupation of City streets, rights-of-way, and other City property by wireless communications providers.
2. Develop recommendations for the City's future action to address the aesthetic, visual, and noise impacts of wireless communication facilities within residential zoning districts.
3. Return this Work Plan to the City Council at least two weeks prior to the public hearing to be held by City Council on July 7, 1998.

The Work Plan will describe how the City intends to:

- Comprehensively study its existing regulations related to wireless communication facilities.
- Determine whether existing ordinances and codes are consistent with the City's objective of protecting residentially zoned areas from aesthetic, visual, and noise impacts associated with wireless facilities.
- Develop new ordinances to amend inconsistencies and/or cover situations not addressed by existing regulations.
- Ensure that City ordinances keep pace with changing business and technology trends in the provision of wireless communication services.

Specific Work Plan tasks are:

**Task 1: Determine if 120 days is adequate time to conduct research, solicit public and industry in-put, discuss and review information at workshop meetings, revise the RCDG, review RCDG revisions with the Technical Committee and Planning Commission, and hold public hearings.**

Purpose: Allow adequate time to complete tasks necessary to comply with the purpose statements of Ordinance No. 1981.

Product: Recommendation to City Council associated with this Work Plan that nine months, instead of six months, is necessary to complete all tasks.

Completion by: July 1998

**Task 2: Research and assess State and Federal Telecommunications laws, legislative actions, court and administrative decisions, and other agencies ordinances, codes, and regulations.**

Purpose: Provide current information necessary to ensure that City ordinances keep pace with changing regulatory actions, and business and technology trends.

Product: An outline of current information to provide the basis for potential changes to the RCDG. A radio frequency engineer not employed by a telecommunications provider should be consulted as part of this task.

Completion by: September 1998

**Task 3: Assess existing City regulations compared to new information provided by Task 2 and to environmental protection objectives of the RCDG and Comprehensive Plan.**

Purpose: Identify and address any deficiencies and/or inconsistencies with existing City regulations.

Product: An outline of deficiencies associated with existing City regulations.

Completion by: October 1998



**Task 4: Public input to the planning process.**

Purpose: To ensure that the public and all interested parties have the opportunity to access the planning process.

Product: Incorporation of comments into recommended revisions to City regulations.

Completed by: Opportunities throughout the process culminating with public hearings December 1998

**Task 5: Develop recommendations and alternatives for revision of existing City regulations.**

Purpose: To provide staff recommendations and alternatives necessary to solicit public, industry, staff, and Planning Commission comments and revisions.

Product: Working drafts and draft staff reports.

Completion by: December 1998

**Task 6: Finalize proposed revisions to existing City regulations.**

Purpose: Provide recommendations to City Council consistent with the purposes of Ordinance 1981.

Product: RCDG revisions for adoption by ordinance

Completed by: January 1999

As indicated by the tasks outlined above, citizen, and interested party input would be solicited throughout the process of investigating and recommending revisions to existing City regulations. Staff believes that the time necessary to complete the tasks outlined above including workshops and public hearings will exceed the six month duration of the moratorium as identified in Ordinance 1981.