

RESOLUTION NO. 2017-05

**A RESOLUTION OF THE TOWN OF WINDERMERE, FLORIDA, OPPOSING THE EROSION OF HOME RULE AUTHORITY EFFECTED BY THE ADVANCED WIRELESS INFRASTRUCTURE DEPLOYMENT ACT; SUPPORTING THE HOME RULE AUTHORITY GRANTED AND GUARANTEED LOCAL GOVERNMENTS BY THE FLORIDA CONSTITUTION; ENCOURAGING THE FLORIDA LEGISLATURE TO RETURN FULL HOME RULE AUTHORITY TO LOCAL GOVERNMENTS WITH RESPECT TO WIRELESS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY; EXPRESSING SOLIDARITY WITH OTHER LOCAL GOVERNMENTS OF ORANGE COUNTY, FLORIDA, IN SUPPORTING TECHNOLOGICAL ADVANCEMENT WHILE PRESERVING THE AUTHORITY OF LOCAL GOVERNMENTS TO ENACT REGULATIONS THAT PRESERVE AND PROTECT LOCAL COMMUNITY VALUES AND INTERESTS; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, The Advanced Wireless Infrastructure Deployment Act (the "Act") was signed into law by Governor Rick Scott and became effective July 1, 2017; and

**WHEREAS**, The Act was a lobbyist and wireless industry-led initiative intentionally crafted to circumvent the authority of local governments to set rules, regulations and rates with respect to wireless facilities in the public rights-of-way that are in their constituents' best interests; and

**WHEREAS**, no evidence was presented to establish that local government regulations or actions had in any way prevented or significantly delayed the deployment of advanced wireless communications infrastructure; and

**WHEREAS**, no evidence was presented to establish that local government involvement would impair the ability of wireless telecommunications providers to improve their wireless telecommunications networks; and

**WHEREAS**, the Town Council of the Town of Windermere recognizes the importance of and encourages the technological advancement and effective infrastructure in the field of wireless telecommunications; and

**WHEREAS**, the Town Council of the Town of Windermere acknowledges that small cell wireless facilities is the next generation of wireless telecommunications technology; and

**WHEREAS**, the Town Council of the Town of Windermere recognizes that the advancement and facilitation of wireless telecommunications infrastructure consistent with the approvals, projects and local government investments related to their rights of way, is in the best interest of the City's constituents; and

**WHEREAS**, the the Town Council of the Town of Windermere recognizes that the wireless industry finds it critical that the speed with which next-generation wireless technology is deployed is material and vital to business success of that technology; and

**WHEREAS**, the Town Council of the Town of Windermere also appreciates the critical role local governments play in ensuring technological progress is consistent with the vision and

values of the communities they represent and to protect the community's investments in their community; and

**WHEREAS**, the Town Council of the Town of Windermere opposes a one-size-fits-all approach to the installation of wireless telecommunications facilities within public rights-of-way, especially considering the great flexibility that exists in the potential size, type, location and installation methods for the types of facilities covered by the Act and the unique characteristics of each local government; and

**WHEREAS**, certain local governments have expended enormous resources on making their rights of way safe, attractive and functional in reliance on their ability to exercise their home rule authority over their rights of way; and

**WHEREAS**, cities, towns and villages are voluntarily created and chartered by their citizens as the embodiment of local self-determination; and

**WHEREAS**, no other level of government is more available or responsive to the voices of their constituents than local government; and

**WHEREAS**, it is widely accepted that government closest to the people is most representative and effective; and

**WHEREAS**, in recognition of the critical role local governments serve Florida voters, in 1968 amended the state constitution to confer broad "Home Rule" powers to municipal government, under Article VIII, Section 2(b); and

**WHEREAS**, the Florida Legislature adopted the Home Rule Powers Act in 1973, which recognizes the broad Home Rule authority of cities and counties to adopt ordinances in the interests of the public health, safety, and welfare; and

**WHEREAS**, local government is the most effective level of government to address the needs of individual communities during the roll-out of rapidly evolving technology; and

**WHEREAS**, it is good practice and policy to allow local governments to enforce their existing, and adopt new rules, regulations and rates that meet the demands of their constituents so as to protect the community investments and maintain the uniqueness of their own communities; and

**WHEREAS**, it is good practice and policy to encourage wireless telecommunications providers to engage with local governments to ensure that the installation of wireless facilities within public rights-of-way is conducted in a manner consistent with the uniqueness of each local community and the values of local communities, rather than to circumvent local involvement in such a critical field; and

**WHEREAS**, the Act significantly adversely impacts the authority of local governments to enforce existing and adopt effective rules, regulations and rates that encourage continued advancement in the field of wireless communications while protecting the values of their communities; and

**WHEREAS**, the Act significantly impairs the ability of local governments to work with telecommunications providers to ensure installation of wireless technology within rights-of-way is conducted in a manner consistent with the values of the community; and

**WHEREAS**, the Orange County Council of Mayors has called upon the local governments of Orange County, Florida to express a unified voice in supporting technological advancement that benefits their constituents while opposing continued state action that erodes their "Home Rule" powers.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF WINDERMERE, FLORIDA, THAT:

**Section 1.** The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are incorporated herein by this reference.

**Section 2.** The Town Council of the Town of Windermere urges the Florida Legislature to reconsider its position on local government involvement in the field of wireless telecommunications infrastructure installation as enacted in the Advanced Wireless Infrastructure Deployment Act and amend the Florida Statutes in order to restore "Home Rule" powers to local governments with respect to wireless facilities in the public rights-of-way.

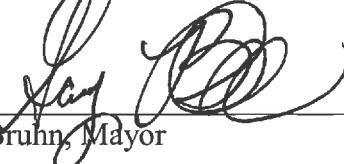
**Section 3.** The Town Council of the Town of Windermere expresses its solidarity with the other local governments of Orange County, Florida, in supporting measures that advance wireless technology without eroding the ability of local governments to protect the best interests of their communities and constituents.

**Section 4.** The Town Council of the Town of Windermere calls for the wireless telecommunications industry to work collaboratively with local governments to promote effective technology infrastructure consistent with the community values of their customers. Specifically, the Council supports the collaborative development of design standards and specifications that empower local governments to devise customized wireless solutions that fit local conditions and, at the same time, provide for the rapid deployment of next-generation technology.

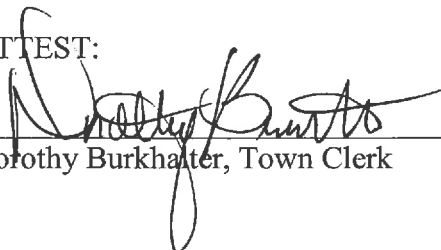
**Section 5.** This Resolution shall become effective immediately upon its passage and adoption.

Passed and adopted by the Town Council of the Town of Windermere, Florida this 19<sup>th</sup> day of ~~August~~ September, 2017.

WINDERMERE, FLORIDA  
TOWN COUNCIL

  
\_\_\_\_\_  
Gary Bruhn, Mayor

ATTEST:

  
\_\_\_\_\_  
Dorothy Burkhalter, Town Clerk

