

**ORDINANCE NO F-1151**

**AN ORDINANCE ESTABLISHING A TEMPORARY MORATORIUM ON THE CONSTRUCTION OF CERTAIN GROUND MOUNTED UTILITY INSTALLATIONS**

WHEREAS, the City of Wheaton, Illinois, (“City”) is an Illinois home rule municipality having those powers provided by State Law; and

WHEREAS, the City has the authority to adopt ordinances pertaining to the public health, safety and welfare regulating private and public property; and

WHEREAS, in conformance with said authority, as well as its franchise authority, the City has issued permits, in accordance with its zoning ordinances, engineering ordinances, life safety ordinances as well as franchise ordinances and agreements pertaining to the installation of structures, including utility installations, fixtures, devices and appurtenances, on both private and public land within the City; and

WHEREAS, the City has recently received applications for permits for the ground mounted installation of utility structures within public ways and easements within the City which utility structures are significantly larger than any prior utility installations within the City; and

WHEREAS, the City recently had a ground mounted utility structure constructed (west side of President Street between Lowden Avenue and Farnham Lane) within the City of Wheaton which, excluding electric substations, is significantly larger than any prior utility installations within the City; and

WHEREAS, the significantly larger ground mounted utility structure for which permits have been requested, present numerous issues not previously considered by the Corporate Authorities of the City with respect to its zoning, public safety, as well as franchising implications; and

WHEREAS, the public health safety and welfare of the citizens of the City of Wheaton requires the Corporate Authorities of the City to more thoroughly evaluate the significantly larger ground mounted utility installations to determine reasonable and adequate regulation of those installations in such manner as will protect the zoning, public health safety and welfare, and franchising authority and franchising ordinances of the City.

NOW THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule powers, as follows:

**SECTION 1:** TEMPORARY MORATORIUM. No grounded mounted utility installation shall be granted a permit, or constructed within the corporate limits of the City of Wheaton, on any private or public property, including public or private ways or public or private easements within 180 days of the passage of this Ordinance.

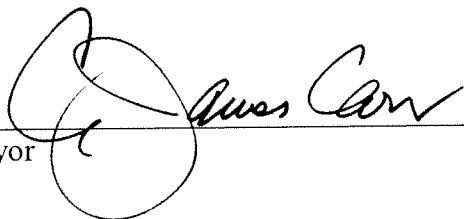
SECTION 2: DEFINITIONS. **Ground mounted utility installation:** A ground mounted utility installation, shall mean any ground mounted utility fixture, cabinet, box, structure, device or appurtenance, including those related to video transmissions, having exterior dimensions greater than fifty inches (50") high by thirty six and one half inches (36 1/2") long, by seventeen and one half (17 1/2") wide, or which is powered by stand alone electric service, but excluding ground mounted electric substations, ground mounted traffic light control cabinets or utility poles.

SECTION 3: STAFF INVESTIGATION. City staff is hereby directed to investigate the issue of ground mounted utility installations in consideration of the possible adoption of ordinances reasonably regulating such installations in the interest of the public health safety and welfare, and existing franchise agreements and ordinances, during this temporary moratorium.

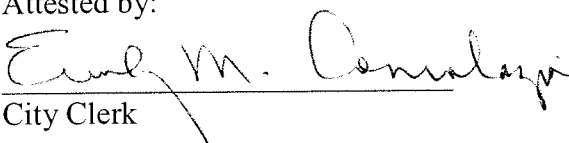
SECTION 4: All Ordinances and parts of Ordinances in conflict with or inconsistent with the provisions of this Ordinance are hereby repealed to the extent of any such conflict or inconsistency.

SECTION 5: That if any part of part or portion of this Ordinance is declared invalid by a court of competent jurisdiction, such partial invalidity shall not affect the remainder of this Ordinance.

SECTION 6: This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form in a manner prescribed by law.

  
\_\_\_\_\_  
Mayor

Attested by:

  
\_\_\_\_\_  
City Clerk

Ayes:

Roll Call Vote:  
Councilwoman Corry  
Mayor Carr  
Councilman Levine  
Councilman Mouhelis  
Councilman Sues  
Councilman Bolds

Nays:

None

Absent:

Councilman Johnson

Motion Carried Unanimously

Passed: April 3, 2006  
Published: April 4, 2006