

Ordinance 2019-_____

Ordinance regulating small cell facilities and wireless support structures and declaring an emergency

WHEREAS, the State of Ohio signed into law on December 19, 2016, Senate Bill 331 that had an effective date of March 21, 2017, and governed small cell site installation in the public right-of-way; and

WHEREAS, prior to its effective date, SB 331 was challenged by municipalities across the State of Ohio for violating Home Rule and other constitutional provisions; and

WHEREAS, the Franklin County Court of Common Pleas found SB 331 unconstitutional and as a result of the pending litigation, municipalities and industry groups compromised and drafted HB 478; and

WHEREAS, HB 478 was signed into law on May 2, 2018 and has an effective date of August 1, 2018; and

WHEREAS, the legislation allows for municipalities to have control over design, aesthetics, and placement of small cell facilities, it limits the size of small cell facilities and it exempts municipal electric poles from small cell attachments; and

WHEREAS, Loveland City Council (“Council”) desires to adopt and implement an ordinance to govern the small cell facilities, as it will be in the best interest of the public for the health and safety of the City of Loveland (the “City”);

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Loveland, Hamilton, Clermont and Warren Counties, Ohio.

Section 1. That Council adopts the Small Cell Facilities & Wireless Support Structures Ordinance, which shall be Chapter 1600 of the Loveland Code of Ordinances, as set forth in Exhibit A, which is incorporated herein by reference.

Section 2. Council hereby finds and determines that all formal actions relative to the passage of this legislation were taken in an open meeting of this Council, and that all deliberations of this Council and of its committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3. That this Ordinance is hereby declared to be an emergency measure for the preservation of the public peace, health, safety and general welfare of the City, and for the further reason that it is immediately necessary to ensure that the City’s provisions pertaining to small cell facilities and wireless support structures are implemented prior to the effective date of HB 478. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage; otherwise from and after the earliest period allowed by law.

Mayor

Clerk of Council

Approved as to Form:

Joseph J. Braun, City Solicitor

First Reading: July 24, 2018

Second Reading: _____

Passed: _____