

RESOLUTION NO. R-20-12

A RESOLUTION CALLING FOR AN AMENDMENT OF THE ILLINOIS SMALL WIRELESS FACILITY DEPLOYMENT ACT TO RETURN CONTROL OF LOCAL RIGHT-OF-WAYS TO LOCAL MUNICIPALITIES OR, IN THE ALTERNATIVE, REPEAL OF THE ACT

WHEREAS, the Village of Clarendon Hills (the "Village"), an Illinois non-home rule municipality, supports the goal of ensuring reliable cellular coverage throughout our community, and supports technological enhancements, such as "smart" technology and 5G wireless communications, as long as the local impacts of such technology are not detrimental to the aesthetics of the Village or undermine the Village's use of its rights of way or impact the number of trees in parkway areas or reduce the tree canopy areas or present the potential negative impacts on the health, welfare and safety of Village residents, property owners, businesses and the public; and

WHEREAS, Public Act 100-585, known as the Illinois Small Wireless Facilities Deployment Act (50 ILCS 840/1 et seq.) (the "Act"), acts to impose certain limitations, restrictions and additional requirements on municipalities, including the Village, regarding the permitting, construction, deployment, regulation, operation, maintenance, repair and removal of certain defined small wireless facilities both within public rights-of-way and in other locations within the jurisdiction of the Village; and

WHEREAS, the Act permits private business entities to take and use public property without reasonable regulation or fair compensation, amounting to an illegal taking that is an unprecedented use of public property with no basis in law; and

WHEREAS, the Act usurps traditional municipal zoning authority, mandating that installations in all rights-of-way and in certain zoning districts be permitted uses, setting an unusual and troubling precedent for future legislation relative to local government control; and

WHEREAS, the Act usurps traditional municipal proprietary control over its own infrastructure, which also sets an unusual and troubling precedent for future legislation relative to local government control; and

WHEREAS, allows wireless providers to locate equipment where it may potentially interfere with critical municipal systems used by police, firefighting, water, and other critical local operations, and, without enhanced local regulations, there will be a negative impact on the number of trees in parkway areas and reductions in the tree canopy areas. Further, the Act's failure to mandate collocation of equipment on existing utility poles and light poles in public rights of way will lead to a unanticipated proliferation of new poles within public rights of way that will have an extremely detrimental impact on the aesthetics within residential areas of the Village and may cause property values to decline; and

WHEREAS, the Act fails to provide municipalities with adequate recourse to address unsafe installations or dangerous equipment; and

WHEREAS, the Act creates an automatic approval timeline, which is one-sided and detrimental to the public, presuming that municipalities are negligent and providers not when a permit is incomplete or inadequate; and

WHEREAS, the Act provides unfettered and unsupervised access to commercial entities that have only their own profitability as their guide, going against a critical public interest to assure that wireless facilities are installed and maintained in a way that safeguards the public's connection to the wireless world in an era of heightened awareness of cyber security risks; and

WHEREAS, it is the responsibility of local authorities to protect the public health, safety, and welfare of its citizens, and the Act undermines this responsibility; and

WHEREAS, it is vital that local authorities be able to hold for-profit, commercial entities to an appropriate standard of responsibility for their use of a public asset; and

WHEREAS, Illinois municipalities are diverse and each one must be given a chance to develop reasonable regulations that will protect their community's specific needs; and

WHEREAS, the President and Board of Trustees of the Village of Clarendon Hills make the following findings and statements:

A. The President and Board of Trustees oppose the Act and encourages the Illinois Legislature and Governor to amend the Act to return control of the local right-of-ways to local municipalities or, in the alternative, to repeal the Act; and

B. The President and Board of Trustees encourage the telecommunications industry to look to alternative methods of deploying small wireless facilities in a manner that better protects the rights of local governments in their own infrastructure and public property; and

C. The President and Board of Trustees are committed to developing reasonable regulations for the deployment of wireless technology and are eager to work with all interested parties and stakeholders to develop regulations that ensure reliable cellular coverage while preventing the unfettered taking and use of public property by private business concerns.

NOW, THEREFORE, BE IT RESOLVED by the President and Board of Trustees of the Village of Clarendon Hills, DuPage County, Illinois, as follows:

SECTION 1: Each of the recitals in the Whereas paragraphs set forth above are incorporated into Section 1 of this Resolution.

SECTION 2: The President and Board of Trustees of the Village of Clarendon Hills find that it is in the best interests of the Village and its residents, property owners, businesses and the public to express its opposition to the Act as approved, to urge its amendment or repeal, and to work with all interested parties and stakeholders to develop regulations that ensure reliable cellular coverage while preventing the unfettered taking and use of public property by private business concerns.

SECTION 3: This Resolution shall be in full force and effect from and after its passage and approval.

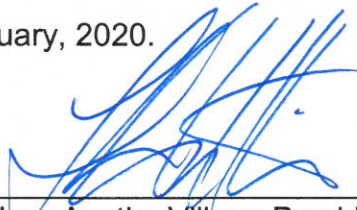
ADOPTED this 18th day of February, 2020 pursuant to roll call vote as follows:

AYES: Trustees DeDobbelaere, Freve, Hall, Jorissen, and Knoll

NAYS: None

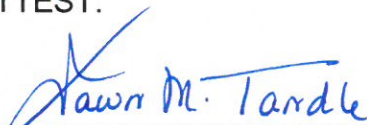
ABSENT: Trustee Jordan

APPROVED by me this 18th day of February, 2020.



Len Austin, Village President

ATTEST:



Dawn M. Tandle, Village Clerk

STATE OF ILLINOIS)
) SS
COUNTY OF DU PAGE)

CLERK'S CERTIFICATE

I, Dawn M. Tandle, Village Clerk of the Village of Clarendon Hills, in the County of DuPage and State of Illinois, do hereby certify that the attached and foregoing is a true and correct copy of that certain Resolution now on file in my Office, entitled:

RESOLUTION NO. R-20-12

A RESOLUTION CALLING FOR AN AMENDMENT OF THE ILLINOIS SMALL WIRELESS FACILITY DEPLOYMENT ACT TO RETURN CONTROL OF LOCAL RIGHT-OF-WAYS TO LOCAL MUNICIPALITIES OR, IN THE ALTERNATIVE, REPEAL OF THE ACT

which Resolution was passed by the Board of Trustees of the Village of Clarendon Hills at a Rescheduled Regular Village Board Meeting on the 18th day of February, 2020, at which meeting a quorum was present, and approved by the President of the Village of Clarendon Hills, Illinois, on the 18th day of February, 2020.

I further certify that the vote on the question of the passage of said Resolution by the Board of Trustees of the Village of Clarendon Hills was taken by Ayes and Nays and recorded in the minutes of the Board of Trustees of the Village of Clarendon Hills, and that the result of said vote was as follows, to-wit:

AYES: Trustees DeDobbelaere, Freve, Hall, Jorissen, and Knoll

NAYS: None

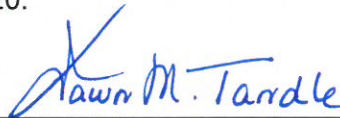
ABSENT: Trustee Jordan

I do further certify that the original Resolution, of which the foregoing is a true copy, is entrusted to my care for safekeeping, and that I am the lawful keeper of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Village of Clarendon Hills, this 18th day of February, 2020.

[SEAL]





Village Clerk