

CITY OF ENGLEWOOD

IN

MONTGOMERY COUNTY, OHIO

ORDINANCE NO: 18-07

PASSED: June 26, 2018

AN ORDINANCE: ENACTING CHAPTER 1028 OF THE ENGLEWOOD CODIFIED ORDINANCES, ENTITLED “SMALL CELL FACILITIES AND WIRELESS SUPPORT STRUCTURES”; and

AMENDING SECTION 1026.02 OF THE ENGLEWOOD CODIFIED ORDINANCES.

WHEREAS, the City of Englewood continues to be vitally concerned with the use of all rights-of-way in the City as such rights-of-way are a valuable, and potentially limited, resource which must be used to promote the public health, safety, and welfare of the City; and

WHEREAS, the City has authority under the Laws and Constitution of the State of Ohio, including but not limited to Article 18, Sections 3, 4 and 7, to regulate the rights-of-way that are used by public and private entities; and

WHEREAS, there is currently pending in the Ohio General Assembly HB 478, which will overhaul the regulations governing the installation of small cell wireless infrastructure in municipalities’ rights-of-way; and

WHEREAS, HB 478 will give guidance to the City as to its regulations; and

WHEREAS, Chapter 1026 of the Englewood Codified Ordinances, titled “Use of Public Rights-of-Way by Telecommunications and Utility Providers”, currently allows for the issuance of Certificates of Registrations for the occupancy, use, or operation of a Utility System within the City’s rights-of-way; and

WHEREAS, Chapter 1026 of the Englewood Codified Ordinances currently applies to, and regulates, utility systems beyond just small cell facilities and wireless support structures; and

WHEREAS, the City desires to remove small cell facilities and wireless support structures from the purview of Chapter 1026 of the Englewood Codified Ordinances and to implement regulations governing small cell facilities and wireless support structures in the City’s rights-of-way that are separate and apart from Chapter 1026 of the Englewood Codified Ordinances, in accordance with HB 478; and

WHEREAS, under the proposed revisions to Ohio Revised Code Chapter 4939 in HB 478, municipal corporations maintain certain existing authority and are granted additional authority regarding small cell facilities and wireless support structures in the public rights-of-way; and

WHEREAS, the City is authorized as a charter municipality to exercise all powers of local self-government.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ENGLEWOOD, OHIO AS FOLLOWS:

SECTION I New Chapter 1028 of the Englewood Codified Ordinances, titled “Small Cell Facilities and Wireless Support Structures” is hereby enacted to read as set forth in the document entitled “Small Cell Facilities and Wireless Support Structures” attached hereto as Exhibit “A” and incorporated herein by reference in its entirety.

SECTION II The current Section 1026.02 of the Englewood Codified Ordinances, identified in strike-through below, is hereby repealed in its entirety:

~~The provisions of this chapter shall apply to all users of the rights-of-way as provided herein, except as provided elsewhere in these Codified Ordinances. To the extent that any provision in this chapter conflicts with other provisions of these Codified Ordinances, or provisions of the Ohio Revised Code, the provisions of this chapter shall control.~~

SECTION III Section 1026.02 of the Englewood Codified Ordinances is hereby replaced with the following:

- (a) Except as provided below, the provisions of this chapter shall apply to all users of the rights-of-way within the City; and to the extent that any provision of this chapter conflicts with another provision of these Codified Ordinances or any provision of the Ohio Revised Code, the provisions of this chapter shall control.
- (b) This Chapter shall not apply to any use of the rights-of-way within the City that is governed or regulated by Chapter 1028 of the Englewood Codified Ordinances.

SECTION IV All provisions of Chapter 1026 not specifically amended herein shall remain the same.

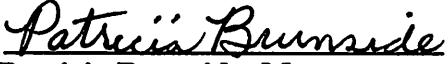
SECTION V It is hereby found and determined that all formal actions of this Council concerning and relating to the Passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and

of any committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

SECTION VI

That this Ordinance shall be in full force and effect at the earliest date allowed by law.

PASSED this 26th day of June, 2018.

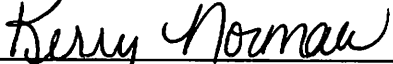

Patricia Burnside, Mayor

ATTEST:


Kerry Norman, Clerk of Council


C E R T I F I C A T E

I, Kerry Norman, Clerk of Council of the City of Englewood, Montgomery County, Ohio, do hereby certify the foregoing is a true and correct copy from the *Record of Proceedings* of said City. **WITNESS** my signature this 26th day of June, 2018.


Kerry Norman, Clerk of Council

C E R T I F I C A T E O F P O S T I N G

I, Kerry Norman, Clerk of Council of the City of Englewood, Montgomery County, Ohio, do hereby certify publication of the foregoing **ORDINANCE** was made as designated by Sections 224.01 and 24.02 of the Englewood Code.


Kerry Norman, Clerk of Council