

RESOLUTION NO. 2016-99
INTRODUCED BY: MAYOR PATRICK A. WARD AND
COUNCIL AS A WHOLE

A RESOLUTION OPPOSING ANY EFFORT IN THE LAME DUCK LEGISLATURE TO ENACT LEGISLATION REDUCING OR ELIMINATING THE ABILITY OF MUNICIPALITIES TO REGULATE CONSTRUCTION WITHIN THEIR RIGHTS-OF-WAY, OPPOSING ANY EFFORT TO ENACT LEGISLATION TO REMOVE SUCH CONTROL FROM MUNICIPALITIES AND PLACE WITH ANY FEDERAL, STATE OR LOCAL COMMISSION OR WITH WIRELESS INTERNET COMPANIES, AND DECLARING AN EMERGENCY.

WHEREAS, this Council has been informed of a legislative proposal to eliminate local control for Ohio municipalities with respect to their permit rates, zoning requirements and maintenance efforts in their own rights of way; and

WHEREAS, this proposal would provide wireless internet companies and other speculators unrestricted access to municipal electric infrastructure in the right of way, as well as all municipal structures located on public property capable of supporting wireless antennas; and

WHEREAS, wireless internet companies have been lobbying the State legislature to include such provisions in unrelated legislation currently being considered by the legislature; and

WHEREAS, this Council believes that adoption of any such legislation at this time in this manner by the lame duck legislature would set a terrible precedent for local control, local safety, and the aesthetics of municipal infrastructure; and

WHEREAS, while there has been no formal legislation introduced to date, the various drafts that have been disseminated to State legislators indicate the wireless internet companies are looking to break the back of Ohio municipalities and to again undermine the constitutionally protected concept of Home Rule; and

WHEREAS, no legislative hearings on any such legislation have as yet taken place, and no public discussion or debate has as yet been conducted; and

WHEREAS, municipalities are already required to provide almost unlimited access to rights of way for wireless internet companies, provided those companies show a necessity for such access, and the draft legislation being discussed would eliminate the requirement to show necessity; and

WHEREAS, this Council vehemently opposes any amendment to any portion of the Ohio Revised Code, including but not limited to Chapter 4939 of the Revised Code, until a new legislature is seated, hearings are held, and the potential effects of such legislation are discussed in open sessions in accordance with law. Now, therefore,

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNDHURST,
CUYAHOGA COUNTY, STATE OF OHIO, THAT:**

SECTION 1. This Council hereby declares its complete and absolute opposition to any effort by any wireless internet company to influence the Ohio Legislature to amend any portion of the Ohio Revised Code to reduce or eliminate the legal ability of a municipality to regulate use of its right of way prior to the new legislature being seated in 2017.

SECTION 2. This Council declares its complete and absolute opposition to any effort to amend any portion of the Ohio Revised Code, including but not limited to Chapter 4939 of the Revised Code, until hearings are held, evidence taken, and discussion held in public.

SECTION 3. This Council hereby declares its complete and absolute opposition to any effort to place municipal control of the public rights of way before any Federal, State, or local commission, including but not limited to the Public Utilities Commission of Ohio, in any way that would reduce or eliminate the local power to zone.

SECTION 4. The Clerk of Council is hereby directed to serve a certified copy of this Resolution upon Ohio Governor John Kasich; State Senator Tom Patton; State Representative Marlene Anielski; Speaker of the House Cliff Rosenberger; and Senate President Keith Faber.

SECTION 5. The Council finds and determines that all formal actions of this Council relating to the adoption of this Ordinance have been taken at open meetings of this Council; and that deliberations of this Council and of its committees, resulting in such formal action, took place in meetings open to the public, in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

SECTION 6. This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation for the public peace, health, welfare, and safety of the City of Lyndhurst and its residents. Therefore, this Resolution shall be in full force and effect immediately upon its passage by the affirmative vote of not less than five (5) members elected to Council, and signature by the Mayor, or otherwise at the earliest time allowed by law.

PASSED: December 5, 2016

MAYOR

VICE MAYOR

ATTEST: _____
Clerk of Council

I, the undersigned Clerk of Council of the City of Lyndhurst, hereby certify that there is no newspaper published or having an office of publication in said City, and that I published the foregoing Ordinance by advertising the same by title on one day in each of two consecutive weeks in a newspaper of general circulation in said City, on December 15, 2016 and December 22, 2016.

Clerk of Council

First Reading: December 5, 2016

Second Reading: Suspended

Third Reading: Suspended