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*Clerk of Council*

# City of Willoughby Hills

## ORDINANCE NO. 2016-30

*Council*

CHRISTOPHER L. BIRO

DAVID M. FIEBIG

JENNIFER SOMMERS GREER

CHRISTOPHER HALLUM

JANET R. MAJKA

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### **AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO AN AGREEMENT WITH TOWERCO FOR THE LEASE OF CERTAIN SURPLUS CITY PROPERTY A VACANT LOT LOCATED ON WEST MILLER ROAD AND DECLARING AN EMERGENCY.**

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**WHEREAS**, Ordinance No. 2006-35 adopted by the Council of the City of Willoughby Hills on May 25, 2006 provided for the adoption of amendments made to the Planning and Zoning Code; and

**WHEREAS**, said amendments provided for the establishment of Chapter 1161 – Regulations for Wireless Telecommunication Facilities; and

**WHEREAS**, said regulations were established to provide for the construction and use of wireless telecommunication towers and facilities as permitted uses and conditional uses depending on the specific land areas of the City in which they are proposed to be located; and

**WHEREAS**, said purpose of the established regulations is to balance the competing interests created by the Federal Telecommunications Act of 1996, Public Law 104-104, and the interests of the City in regulating wireless telecommunication towers and related facilities; and

**WHEREAS**, on February 23, 2016 Verizon Wireless notified the Administration and the Members of Council that they had initiated a program called “Strategic Collocations” whereby certain approved vendors are contracted to acquire and build mobile communication sites on behalf of and for Verizon’s use and only a few, select tower companies have been capable of meeting Verizon’s exacting financial, construction, and timeline standards as well as Verizon’s lease terms; and

**WHEREAS**, Verizon named TowerCo as being contracted to acquire and build a site in the general vicinity of the City’s property known as The Grange; and

**WHEREAS**, Verizon requested that the City accept members of TowerCo and Strategis, LLC as Verizon approved and authorized representatives in securing a land space for Verizon’s new communication site requirement that being property located at 2454 River Road; and

**WHEREAS**, a Working Committee of Council Meeting was held on February 25, 2016 for the purpose of providing an opportunity for TowerCo to present a cell tower proposal utilizing City owned property located at 2454 River Road, (Parcel #31-A-012-E-00-018-0); and

**WHEREAS**, the meeting concluded with the Law Director stating that the City would be requiring Planning Commission review and approval, and advised that the Regulations for Wireless Telecommunications established in Chapter 1161 should not be waived, especially given that the property located at the Grange is situated within a residential area; and

**WHEREAS**, as a result of the abovementioned Working Committee of Council Meeting, the City requested TOWERCO to submit an additional a cell tower lease agreement proposal for a vacant platted lot located on Miller Road (PPN 31-A-025-0-00-003-0), acquired by the City in November of 2015.

***NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILLOUGHBY HILLS, COUNTY OF LAKE, STATE OF OHIO THAT:***

**SECTION 1.** This Council hereby finds and determines that the use of the vacant platted lot located on Miller Road, Willoughby Hills, Ohio and described within the **Option and Ground Lease Agreement** referenced herein as the **"Exhibit A"**, consisting of twenty-four (24) pages, for the purposes of constructing and operating a telecommunications tower and appurtenances for the transmission and receipt of telecommunications uses is in furtherance of a public purpose, and authorizes and directs the Mayor to enter into said Option and Ground Lease Agreement by and between the City of Willoughby Hills and TOWERCO 2013 LLC, a Delaware limited liability company.

**SECTION 2.** The standards and provisions established in **Chapter 1161 – Regulations for Wireless Telecommunications** shall apply; purpose being: (a) protect property values; (b) regulate a commercial use so as to provide for orderly and safe development within the City; (c) provide for and protect the health, safety and general welfare of the residents of the City; (d) minimize any adverse effects on residential properties, parks, open spaces and the non-intensive commercial zoning districts; (e) to promote collocation of wireless telecommunication facilities in order to decrease the number of towers in the City; (f) maintain the aesthetic appearance of the City; and (g) To maintain, where possible, the integrity of this Planning Zoning Code.

**SECTION 3.** The standards and provisions of **Chapter 1111 – Development Plan Review and Procedures** shall apply; purpose being to provide that an adequate review by the Planning and Zoning Commission and the Architectural Board of Review of proposed developments in those zoning districts where the uses permitted are of such nature, because of their size, scale or effect on surrounding property, that review of specific plans is deemed necessary to protect the public health, safety and general welfare of the community.

**SECTION 4.** The execution of this Option and Ground Lease Agreement between TOWERCO 2013 LLC and the City of Willoughby Hills is contingent upon the approval and recommendation of the Planning & Zoning Commission and Architectural Board of Review for a 130-foot-high monopole antenna communications tower to be located and constructed on a 50 feet by 50 feet vacant platted lot located on Miller Road (PPN 31-A-025-0-00-003-0) zoned SCR-Senior Citizen Residential, owned by and located in the City of Willoughby Hills.

**SECTION 5.** The real property of the City described and/or intended in the aforesaid lease is hereby determined to be surplus property not currently needed for municipal purposes.

**SECTION 6.** The actions of this Council concerning and relating to the passage of this legislation were conducted in lawful meetings of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in compliance with all legal requirements including Chapter 107 of the Codified Ordinances of the City of Willoughby Hills.

**SECTION 7.** This Ordinance constitutes an emergency measure in that the same provides for the immediate preservation of the public peace, health, safety and welfare of the inhabitants of the City of Willoughby Hills insofar as it provides for the usual daily operation of a municipal department, and further reason being the Administration has requested the immediate passage to allow TOWERCO to begin construction in 2016; wherefore, this Ordinance shall be in full force and effect from and after its adoption and approval by the Mayor.

PASSED: June 9, 2016

Submitted to the Mayor for his approval  
on this 9 day of June, 2016

ATTEST: Victoria Ann Savage, CMC  
Clerk of Council

Nancy E. Fellows  
Nancy E. Fellows  
President of Council

Approved by the Mayor

June 9, 2016  
Robert M. Weger  
Robert M. Weger  
Mayor