

ORDINANCE NUMBER 2024-02

AN ORDINANCE OF THE TOWN OF PARADISE VALLEY, ARIZONA, AMENDING THE ZONING ORDINANCE OF THE TOWN OF PARADISE VALLEY, ARTICLE XII, PERSONAL WIRELESS SERVICE FACILITIES, RELATING TO THE PROCESS FOR SITE APPROVALS; AND PROVIDING FOR SEVERABILITY.

WHEREAS, the Mayor and Town Council (the “Town Council”) of the Town of Paradise Valley (the “Town”) adopted Resolution 2022-23 on December 8, 2022, which resolution repealed Resolutions 932 and 932(A), updated a non-exclusive list of Personal Wireless Service Facility locations, and directed Town staff to take forward an amendment to Article XII (Personal Wireless Service Facilities) of the Town of Paradise Valley Zoning Ordinance (the “Zoning Ordinance”) for Planning Commission recommendation and Town Council action creating a managerial or similar process for Personal Wireless Service Facilities (“PWSF”) for five specific sites to close the gaps in cell coverage; and

WHEREAS, on April 16, 2024, the Town of Paradise Valley Planning Commission (the “Planning Commission”) held a public hearing, as prescribed by law, to consider Ordinance Number 2024-02, and recommended _____; and

WHEREAS, on _____, 2024, the Town Council held a public hearing to hear and take action on Ordinance Number 2024-02 as recommended by the Planning Commission; and

WHEREAS, the Town Council has determined that the Citizen Review Meeting held by the Planning Commission on April 2, 2024, was in accordance with Section 2-5-2(G) of the Paradise Valley Town Code; and

WHEREAS, in accordance with Article II, Sections 1 and 2 of the Constitution of Arizona, the Town Council has considered the individual property rights and personal liberties of the residents of the Town before adopting this ordinance; and

WHEREAS, the Town Council has determined that this ordinance, although a “zoning ordinance text amendment of general applicability” as described in A.R.S. § 9-462.01(J), does not, because of its limited applicability to locations for PWSF, have any relationship to, or impact on, housing. Therefore, the Town Council has determined is not possible to prepare or consider a housing impact statement regarding the impact of the zoning ordinance text amendment that includes the information required by A.R.S. § 9-462.01(J)(1) – (3).

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PARADISE VALLEY, ARIZONA, AS FOLLOWS:

Section 1. The recitals above are incorporated as if fully set forth herein.

Section 2. The Zoning Ordinance, Article XII (Personal Wireless Service Facilities), Section 1203 (General Requirements), is hereby deleted in its entirety and replaced with the following:

Section 1203. General Requirements.

- A. All PWSF shall be located, developed, constructed, modified or operated in accordance with the requirements and standards in this Zoning Ordinance and the Town Code, including granting of, or modifications to, Special Use Permits as may be required to accommodate a PWSF.
- B. Certain locations have been identified by the Council in Resolution 2022-23 for potential PWSF sites, some of which have been designated as “Primary Sites.” Those sites designated in Resolution 2022-23 as “Primary Sites” shall only be subject to the Managerial Approval/Amendment process set forth in Section 1213 of this Zoning Ordinance; potential locations not designated as “Primary Sites” require a Conditional Use Permit pursuant to Section 1103.2 of this Zoning Ordinance.
- C. A PWSF may be mounted on a structure that is not a dwelling unit on the side or roof in accordance with the requirements of this Article. A PWSF is prohibited on any dwelling unit or site containing dwelling units unless otherwise authorized as a Primary Site pursuant to Subsection B of this section.

Section 3. The Zoning Ordinance, Article XII (Personal Wireless Service Facilities), is hereby amended to add a new Section 1213 (Managerial PWSF Approvals/Amendments), as follows:

Section 1213. Managerial Approval/Amendment.

The application process for a Managerial Approval/Amendment is comprised of two phases: Phase I - the application submittal process, in which the applicant and Town staff work together to create a complete application and Phase II - the formal project review by the Town Manager or designee.

- A. The applicant must first complete the pre-application review process in accordance with Section 2-5-2(E) of the Town Code.
- B. Upon completion of the pre-application review, the applicant shall submit to the Town (1) the formal Managerial PWSF application on a form prescribed by the Town, (2) the fee set forth in the Town of Paradise Valley Fee Schedule, as such may be amended from time to time, unless waived as allowed by Resolution No. 2022-23, and (3) all documents and materials deemed necessary by the Town Manager (or designee) for compliance with the applicable “Primary Site” guidelines set forth in Resolution No. 2022-23 and the requirements of this Article. A Managerial PWSF

application that does not meet the “Primary Site” guidelines set forth in Resolution No. 2022-23, as it may be amended from time to time, shall be processed according to the Conditional Use Permit requirements pursuant to Section 1103.2 of this Zoning Ordinance.

- C. Upon receipt of a complete submittal including all of the information and fees as set forth in Section 1213(B), the Town Manager (or designee) will review the submittal within a reasonable time and either approve or deny the Managerial PWSF application.
- D. The Town Manager (or designee) shall transmit all determinations approving a Managerial Approval/Amendment to the Council within two business days of making the determination.
- E. The Town Manager’s (or designee’s) decision shall be final, subject to Council review as set forth in Section 1213(F).
- F. If, within seven calendar days after the Town Manager’s (or designee’s) written determination, at least three members of the Council submit a written request to the Town Manager, the Council shall have the authority to review an approved Managerial Approval/Amendment application. Such review shall be considered at a Council meeting within 14 calendar days after the Town Manager’s receipt of the third written request pursuant to this Section. The Council’s review shall be limited to a determination, by a majority vote of the members present and not otherwise disqualified, as to whether the Town Manager’s (or designee’s) decision meets the criteria for a Managerial Approval/Amendment related to a Primary Site. If the Council decides that the criteria have been met, then there shall be no further consideration and the Managerial Approval/Amendment is final. If the Council determines that the criteria have not been met, the Council may deny the Managerial Approval/Amendment, in whole or in part. A majority vote of the members present and not otherwise disqualified shall be necessary to deny or modify the decision of the Town Manager (or designee); otherwise the Town Manager’s written determination shall be deemed affirmed.

Section 4. If any provision of this ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct, and independent of all other provisions, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 5. The Mayor, the Town Manager, the Town Clerk, and the Town Attorney are hereby authorized and directed to take all steps necessary to carry out the purpose and intent of this ordinance.

[Signatures on following page]

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Paradise Valley, Arizona, this _____ day of _____, 2024.

Jerry Bien-Willner, Mayor

ATTEST:

Duncan Miller, Town Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, Town Attorney