

## ORDINANCE NUMBER 2019-08

### AN ORDINANCE OF THE TOWN OF PARADISE VALLEY, ARIZONA AMENDING THE PARADISE VALLEY TOWN CODE, CHAPTER 2, ARTICLE 2-5, SECTION 2-5-2(I)(2)(I) REGARDING THE DEFINITION OF SMALL WIRELESS FACILITY

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

WHEREAS, the Town Council desires to make revisions to Article 2-5, Section 2-5-2, Planning Commission, to revise the definition of Small Wireless Facility contained in Section 2-5-2(I)(2)(I).

**Section 1.** Article 2-5, Section 2-5-2(I)(2)(I) is hereby amended (with deletions shown as ~~striketroughs~~ and additions shown in **bold type**):

Section 2-5-2      Planning Commission

#### I. Small Wireless Service Facilities Located in the Rights-Of-Way

- I-1      Purpose
- I-2      Definitions
- I-3      General Requirements
- I-4      Siting Standards
- I-5      Design Standards
- I-6      Alternative Design Standards
- I-7      Radiofrequency (RF) Performance and Interference Standards and Monitoring
- I-8      Noise and Environmental Standards
- I-9      Co-Location and Limitations
- I-10     Submittal Requirements
- I-11     Permit Limitations and General Conditions
- I-12     Applicability

#### 2. Definitions.

For the purpose of this Section, the following terms shall have the meanings prescribed herein unless the context clearly requires otherwise:

- a) "Administrative Small Wireless Facility Permit" means the administrative permit approved by the Town for a Small Wireless Facility site.
- b) "Antenna" means communication equipment that transmits or receives electromagnetic radio frequency signals and that is used as part of a Small Wireless Facility;

- c) "Applicant" means a person or other entity who submits an application to the Town for an Administrative Small Wireless Facility Permit for a Small Wireless Facility in the Town rights-of-way. A Permittee and the owner of the subject property (which may be through a master license agreement), and/or utility pole shall be an Applicant(s) or co-Applicant(s) on such application;
- d) "Application" means a complete submittal for an Administrative Small Wireless Facility Permit on a form or set of forms prescribed by the Town that is deemed complete by the Town staff and contains all of the required submittals, studies, diagrams, photo simulations, and other documentation required pursuant to the checklists on the prescribed form(s) or in this Section.
- e) "Co-location" means the use of a single mount and/or site by more than one small wireless service provider;
- f) "Design" means the appearance of a Small Wireless Facility, including but not limited to its material, color or shape;
- g) "Equipment cabinet" means an enclosed box that is either located in a vault at or near the base of the SWF which contains, among other things, batteries and electrical equipment (hereinafter referred to as "equipment"). This equipment is connected to the antenna by underground cables.
- h) "Location" means property(ies) or site(s) where Small Wireless Facilities are located or could be located;
- i) "Modification" means any physical or operational change, alteration, or other modification of any of the following as they relate to a Small Wireless Facility or the subject property upon which it is located, including but not limited to:
  - i. The site plan;
  - ii. The sight line representation;
  - iii. The design submittal as required in this Section;

The conversion of a single-use Small Wireless Facility to a co-location is also considered a modification;

- j) "Monopole" means a type of mount that is self-supporting with a single shaft of steel or concrete or other acceptable material that is not more than forty inches in diameter at ground level and that has all of the small wireless facilities mounted on the pole or contained inside the pole;
- k) "Permittee" means an Applicant who has an approved Administrative Small Wireless Facility Permit;
- l) "Small Wireless Facility" or "SWF" means any of several technologies using radio signals at various frequencies to send and receive voice, data or video to and from mobile transceivers, which are composed of **a faux cactus that houses Antennas internally or a replacement Utility Pole that has Antennas that are no more than**

**six cubic feet in volume, AND any of the following: ~~two (2) or more of the following components:~~**

- ~~i. Antennas that are no more than six cubic feet in volume;~~
  - ~~ii. Faux Cactus or replacement Utility Pole;~~
  - ~~iii. Equipment cabinet less than twenty-eight cubic feet in volume; or~~
  - ~~iiiv. Underground vault for equipment; or~~
  - ~~iiiv. Electric meter (where required by law); or~~
  - ~~iv. Grounding Equipment and a power transfer switch.~~
- m) "Small Wireless Services" means commercial mobile radio services, unlicensed wireless services and common carrier wireless exchange access services as defined in the Telecommunications Act of 1996, and any amendments thereto, and any services that are provided to the public and that use licensed or unlicensed spectrum, whether at a fixed location or mobile and that use small wireless facilities;
- n) "Sight Line Representation" means a drawing in which a sight line is drawn from a street level view (viewpoint shall be approximately 4 feet above grade) within five hundred (500) feet of the SWF to the highest point (visible point) of the SWF. Each sight line shall be depicted in profile, drawn at one inch equals forty (40) feet unless otherwise specified by the Town. The profiles shall show all intervening trees and structures;
- o) "Site" means the subject property where a small wireless facility is located or proposed to be located.
- p) "Siting" means the method and form of placement of a small wireless facility on a specific area of a subject property pursuant to the provisions of this Section;
- q) "Subject Property" means all the specific rights-of-way upon which a small wireless facility is either proposed to be, or already is, developed, located, constructed or operated; and
- r) "Utility Pole" means a pole or similar structure that is used in whole or in part for communications services, electric distribution, lighting or traffic signals, but excludes a monopole.

**Section 2.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

**Section 3.** This Ordinance shall become effective in 30 days.

**Section 4.** In accordance with Article II, Sections 1 and 2, 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.

PASSED AND ADOPTED by the Mayor and Council of the Town of Paradise Valley, Arizona, this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Jerry Bien-Willner, Mayor

ATTEST:

\_\_\_\_\_  
Duncan Miller, Town Clerk

APPROVED AS TO FORM

\_\_\_\_\_  
Andrew M. Miller, Town Attorney