

ORDINANCE NUMBER 2020-06

AN ORDINANCE OF THE TOWN OF PARADISE VALLEY, ARIZONA, APPROVING AN INTERMEDIATE AMENDMENT TO THE SPECIAL USE PERMIT FOR EQUIPMENT MODIFICATIONS TO THE EXISTING DISTRIBUTED ANTENNA SYSTEM WHICH IS LOCATED IN THE TOWN'S RIGHT-OF-WAY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Paradise Valley Council held a public hearing on June 11, 2020, in the manner prescribed by law, to hear and to take action on the amendment to the Special Use Permit for equipment modifications to the Crown Castle Distributed Antenna System, as recommended by the Planning Commission; and

WHEREAS, the Town of Paradise Valley Planning Commission held a public hearing on May 5, 2020, in the manner prescribed by law, for the purpose of considering an amendment to the Special Use Permit for equipment modifications to the Crown Castle Distributed Antenna System, and recommended approval to the Town Council; and

WHEREAS, the Town Council finds that the Applicant met the requirements of Section 2-5-2.F, Citizen Review Process, including holding a Citizen Review Session on April 20, 2020 to provide a reasonable opportunity for the Applicant, adjacent landowners, and other potentially affected citizens to discuss issues or concerns they may have with the Application; and

WHEREAS, the amendment to the Special Use Permit for equipment modifications to the Crown Castle Distributed Antenna System is consistent the Town's General Plan and its Special Use Permit; and

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

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

SECTION I. In General

1. The Distributed Antenna System Special Use Permit is located in the Town's right-of-way in the Town of Paradise Valley, Arizona, more particularly described on Exhibit "A" attached hereto (the "Distributed Antenna System Special Use Permit").
2. The Distributed Antenna System Special Use Permit is hereby amended by application SUP 20-03 to allow for equipment modifications at Node/Site H219 (7300 N Tatum Blvd.), Node/Site H228 (6401 E McDonald Drive), and Node/Site 232 (5395 N Invergordon Road), subject to any definitions, stipulations, plans, and documents set forth in Exhibit "B" and Exhibit "C", attached hereto.
3. The Distributed Antenna System Special Use Permit includes the following sections: Project Description, Stipulations, and Approved Plans. This Special Use Permit has been amended to include all applicable prior approvals that shall remain in full force and effect, together with the amendments of Exhibit "B" as set forth in Exhibit "C", attached hereto.
4. This Intermediate Amendment to the Distributed Antenna System Special Use Permit (SUP 20-03) for the Crown Castle equipment modifications is in accordance with Section 1102.7 of the Zoning Ordinance.

SECTION 2. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 3. Effective Date. This ordinance shall become effective at the time and in the manner prescribed by law.

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Paradise Valley, Arizona, this ____ day of _____, 2020.

Jerry Bien-Willner, Mayor

SIGNED AND ATTESTED THIS ____ DAY OF _____ 2020.

ATTEST:

APPROVED AS TO FORM:

Duncan Miller, Town Clerk

Andrew Miller, Town Attorney

**EXHIBIT “A”
TO
ORDINANCE NUMBER 2020-06**

DISTRIBUTED ANTENNA SYSTEM SPECIAL USE PERMIT

The Distributed Antenna System Special Use Permit was issued on July 8, 2010 via SUP 10-4 and Ordinance 625. The Distributed Antenna System Special Use Permit identifies specific locations in the Town’s right-of-way and allows for the use of the right-of-way for utility poles associated with a distributed antenna system, including antenna nodes on traffic signal poles, street light poles, and faux saguaro cactus, subject to the stipulations set forth in SUP 10-4 and Ordinance 625.

**EXHIBIT “B”
TO
ORDINANCE NUMBER 2020-06**

DESCRIPTION OF PROPOSED AND PRIOR SUP AMENDMENTS

**TOWN OF PARADISE VALLEY
DISTRIBUTED ATNENNA SYSTEM SPECIAL USE PERMIT**

The Town approved the original Special Use Permit (“SUP”) for the Distributed Antenna System (“DAS”) on July 8, 2010. The list below summarizes the known amendments to the SUP.

June 11, 2020 (SUP 20-03)	Intermediate Special Use Amendment to allow equipment modifications at Node/Site H219 (7300 N Tatum Blvd.), Node/Site H228 (6401 E McDonald Drive), and Node/Site 232 (5395 N Invergordon Road).
November 15, 2011 (SUP 11-7)	Minor Special Use Permit Amendment to add electric meters at each antenna node location.
July 8, 2010 (SUP-10-4)	Special Use Permit to allow for the installation of new or modified utility poles and equipment (for a Distributed Antenna System) in the Town of Paradise Valley right-of-way.

**EXHIBIT “C”
TO
ORDINANCE NUMBER 2020-06**

SPECIAL USE PERMIT

**TOWN OF PARADISE VALLEY
DISTRIBUTED ANTENNA SYSTEM SPECIAL USE PERMIT**

I. PROJECT DESCRIPTION

Pursuant to Article XI of the Zoning Ordinance of the Town of Paradise Valley, Arizona (the “Town”), the Town hereby grants an Intermediate Special Use Permit Amendment (SUP 20-03) by its approval of this Ordinance.

This Intermediate Amendment is one of several amendments to the first Special Use Permit approved by the Town in 2010. This Intermediate Special Use Permit Amendment is being granted by the Town to permit the continued use and operation of a distributed antenna system subject to and in accordance with the stipulations and other provisions set forth herein.

Subject to the new stipulations, the existing stipulations, and other provisions set forth herein, the facilities and uses authorized to be developed, redeveloped, and used for the distributed antenna system shall be as depicted on the Approved Plans and documents.

II. STIPULATIONS

A. GENERAL

SUP 20-03. New/Proposed SUP Stipulations for Equipment Modifications for Nodes/Sites: 1) H219 located at 7300 N. Tatum Blvd, 2) H228 located at 6401 E. McDonald Dr, and 3) H232 located at 5395 N. Invergordon Rd:

1. All improvements to the three sites shall be in substantial compliance with the following Narrative, Plans, and Documents:
 - a. The “Paradise Valley – Equipment Modifications to 3 Streetlight SWF Sites” Narrative prepared by Crown Castle.
 - b. Sheet T1.1, Title Sheet, Node Number H219-01, Node Address 7300 N Tatum Blvd., prepared by Crown Castle and Shift Companies LLC, and dated January 28, 2020.
 - c. Sheet A1.1, Site Plan, Equipment and Antenna Plan, Node Number H219-01, Node Address 7300 N Tatum Blvd., prepared by Crown Castle and Shift Companies LLC, and dated January 28, 2020.
 - d. Sheet A1.2, Pole Elevation/Photo Simulations, Proposed, Node Number H219-01, Node Address 7300 N Tatum Blvd., prepared by Crown Castle and Shift Companies LLC, and dated January 28, 2020.
 - e. Sheet A1.3, Sight Visibility Exhibit, Node Number H219-01, Node Address 7300 N Tatum Blvd., prepared by Crown Castle and Shift Companies LLC, and dated January 28, 2020.
 - f. Sheet T1.1, Title Sheet, Node Number H228-01, Node Address 6401 E McDonald Drive, prepared by Crown Castle and Shift Companies LLC, and dated February 12, 2020.
 - g. Sheet A1.1, Site Plan, Equipment and Antenna Plan, Node Number H228-01, Node Address 6401 E McDonald Drive, prepared by Crown Castle and Shift Companies LLC, and dated February 12, 2020.
 - h. Sheet A1.2, Pole Elevation/Photo Simulations, Proposed, Node Number H228-01, Node Address 6401 E McDonald Drive, prepared by Crown Castle and Shift Companies LLC, and dated February 12, 2020.
 - i. Sheet A1.3, Sight Visibility Exhibit, Node Number H228-01, Node Address 6401 E McDonald Drive, prepared by Crown Castle and Shift Companies LLC, and dated February 12, 2020.
 - j. Sheet T1.1, Title Sheet, Node Number H232-01, Node Address 5395 N Invergordon Road, prepared by Crown Castle and Shift Companies LLC, and dated February 12, 2020.
 - k. Sheet A1.1, Site Plan, Equipment and Antenna Plan, Node Number H232-01, Node Address 5395 N Invergordon Road, prepared by Crown Castle and Shift Companies LLC, and dated February 12, 2020.
 - l. Sheet A1.2, Pole Elevation/Photo Simulations, Proposed, Node Number H232-01, Node Address 5395 N Invergordon Road, prepared by Crown Castle and Shift Companies LLC, and dated February 12, 2020.
 - m. Sheet A1.3, Sight Visibility Exhibit, Node Number H232-01, Node Address 5395 N Invergordon Road, prepared by Crown Castle and Shift Companies LLC, and dated February 12, 2020.

2. Equipment Cage Orientation:
 - a. The solid portion of the equipment cages shall face the street. The solid portion of Node H219 equipment cage shall face Tatum Blvd.; the solid portion of H228 equipment cage shall face Invergordon Road, and the solid portion of Node H232 equipment cage to face Invergordon Road.
3. Equipment Cage Finish and Color:
 - a. The proposed equipment cages shall have a rusted metal finish. The equipment cages may have a “bare metal” or “unprotected” initial finish that will allow them to rust over time. Any changes to the finish and/or color of the equipment cages will require Town Manager or Designee approval.
4. Landscaping:
 - a. Node H228. Three (3) Creosote bushes shall be placed around the equipment cage in accordance with Sheet A1.1, Site Plan, Equipment and Antenna Plan, Node Number H228-01, Node Address 6401 E McDonald Drive, prepared by Crown Castle and Shift Companies LLC, and dated February 12, 2020.
 - b. Node H232. Three (3) Creosote bushes shall be placed around the equipment cage in accordance with Sheet A1.1, Site Plan, Equipment and Antenna Plan, Node Number H232-01, Node Address 5395 N Invergordon Road, prepared by Crown Castle and Shift Companies LLC, and dated February 12, 2020.
 - c. At the applicant’s expense, the new landscaping around Node H228 and Node H232 equipment cages shall be maintained by a landscaper for one (1) year to help ensure that the Creosote bushes take root and survive. If the landscaping dies, it shall be replaced with plants in accordance with the approved plans. Any changes to the landscaping shall require Town Manager or Designee approval.

(EXISTING S.U.P. STIPULATIONS to Remain in Full Force and Effect Unless Changed or Modified by Intermediate Amendment SUP 20-03):

SUP 11-7. Minor Special Use Permit Amendment to allow for the Installation of Electrical Meters at each of the 42 Distributed Antenna Nodes located in the Town of Paradise Valley Right-of-Way:

1. All existing Special Use Permit stipulations shall remain in full force and effect with stipulation # 6 revised as follows:
 - a. Staff shall inspect each node site **including but not limited to all electric meter pedestals, faux rocks, disconnects, and** vaults in the field after antenna and fiber installation is adequate. **Crown Castle** shall make adjustments per staff’s direction including but not limited to additional landscaping and paint adjustments. **All such landscaping shall be maintained and replaced as staff deems necessary.**

2. The meters shall be installed in substantial compliance with the following:
 - a. Electric Meter Pedestal Placement Criteria for DAS Nodes, Dated October 27, 2011 with criteria #9 revised as follows:
 1. Additional **landscaping** or shrub(s) as **deemed** necessary for maximizing screening. **All such landscaping shall be maintained and replaced as staff deems necessary.**
 - b. Special Use Permit booklet dated October 18, 2011 with Amendments listed on Sheet Dated November 15, 2011.

SUP 10-4 (Ordinance 625). Special Use Permit to allow for the Installation of New or Modified Utility Poles (for a Distributed Antenna System) in the Town of Paradise Valley Right-of-Way:

1. The Distributed Antenna System improvements shall be in substantial compliance with the following attached documents:
 - a. DAS Master Plan for Paradise Valley, AZ booklet dated June 24, 2010 with antenna node H238 relocated to the new proposed location on the North side of Northern Avenue, east of N. Mockingbird Lane as shown on the revised aerial, photo-simulation, and land-use plan dated July 6, 2010 and with antenna node H678 relocated south of Option A on the east side of Arroyo south of Desert Jewel up to the northern boundary of the wash delineation with additional redesign by the licensee.
 - b. Saguaro Cactus Standard Features submitted on June 15, 2010 with the Larson paint list attached for reference.
2. The Distributed Antenna System shall be limited to five (5) carriers and/or twelve (12) amplifiers unless a Minor Amendment to the Special Use Permit is granted, the RF Exposure Report is updated, and no changes are made to the approved antenna node equipment. Aesthetic changes to the approved antenna equipment or the addition of new antenna nodes shall require an Intermediate Amendment to the Special Use Permit.
3. The faux rocks installed in conjunction with the individual antenna nodes shall be painted to match the surrounding conditions.
4. The electrical disconnect installed in conjunction with the individual antenna nodes shall be painted to match the surrounding conditions and be located as low to the ground as possible.
5. The vaults installed in conjunction with the individual antenna nodes shall be flush with the ground.
6. Town of Paradise Valley staff shall inspect each node site in the field after antenna and fiber installation is complete to determine if landscaping, painting, and overall installation is adequate. Any licensee of the Town using the DAS shall make adjustments per Town staff's direction including but not limited to additional landscaping and paint adjustments.

7. The DAS shall meet the current FCC RF Guidelines and any amendments thereto. If FCC Guidelines are changed, then the DAS shall be brought into compliance with such revised guidelines within the time period provided by the FCC or if no time period is stated, then within sixty (60) days of the effective date of such guidelines.
8. Any licensee of the Town using the DAS shall install an 8" x 12" "RF Caution" metal plate on the vault hatch at each antenna location in substantial compliance with the template provided by Newpath Networks dated June 24, 2010.
9. No permits for any licensee of the Town using the DAS shall be issued for the fiber installation or antenna node installations until the Town Council approves a license agreement, or any equivalent thereof, for a licensee or other authorized user to utilize the DAS.

III. APPROVED PLANS

The following are known approved plans and documents that still apply to the Distributed Antenna System (DAS). In the case of discrepancies between Approved Plans, those with a later date shall take precedence. In the circumstance an approved plan or document is not listed, this does not nullify its validity.

June 11, 2020 (SUP 20-03)	<ol style="list-style-type: none"> 1. The "Paradise Valley – Equipment Modifications to 3 Streetlight SWF Sites" Narrative prepared by Crown Castle. 2. Sheet T1.1, Title Sheet, Node Number H219-01, Node Address 7300 N Tatum Blvd., prepared by Crown Castle and Shift Companies LLC, and dated January 28, 2020. 3. Sheet A1.1, Site Plan, Equipment and Antenna Plan, Node Number H219-01, Node Address 7300 N Tatum Blvd., prepared by Crown Castle and Shift Companies LLC, and dated January 28, 2020. 4. Sheet A1.2, Pole Elevation/Photo Simulations, Proposed, Node Number H219-01, Node Address 7300 N Tatum Blvd., prepared by Crown Castle and Shift Companies LLC, and dated January 28, 2020. 5. Sheet A1.3, Sight Visibility Exhibit, Node Number H219-01, Node Address 7300 N Tatum Blvd., prepared by Crown Castle and Shift Companies LLC, and dated January 28, 2020. 6. Sheet T1.1, Title Sheet, Node Number H228-01, Node Address 6401 E McDonald Drive, prepared by Crown Castle and Shift Companies LLC, and dated February 12, 2020. 7. Sheet A1.1, Site Plan, Equipment and Antenna Plan, Node Number H228-01, Node Address 6401 E McDonald Drive, prepared by Crown Castle and Shift Companies LLC, and dated February 12, 2020. 8. Sheet A1.2, Pole Elevation/Photo Simulations, Proposed, Node Number H228-01, Node Address 6401 E McDonald Drive,
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	<p>prepared by Crown Castle and Shift Companies LLC, and dated February 12, 2020.</p> <p>9. Sheet A1.3, Sight Visibility Exhibit, Node Number H228-01, Node Address 6401 E McDonald Drive, prepared by Crown Castle and Shift Companies LLC, and dated February 12, 2020.</p> <p>10. Sheet T1.1, Title Sheet, Node Number H232-01, Node Address 5395 N Invergordon Road, prepared by Crown Castle and Shift Companies LLC, and dated February 12, 2020.</p> <p>11. Sheet A1.1, Site Plan, Equipment and Antenna Plan, Node Number H232-01, Node Address 5395 N Invergordon Road, prepared by Crown Castle and Shift Companies LLC, and dated February 12, 2020.</p> <p>12. Sheet A1.2, Pole Elevation/Photo Simulations, Proposed, Node Number H232-01, Node Address 5395 N Invergordon Road, prepared by Crown Castle and Shift Companies LLC, and dated February 12, 2020.</p> <p>13. Sheet A1.3, Sight Visibility Exhibit, Node Number H232-01, Node Address 5395 N Invergordon Road, prepared by Crown Castle and Shift Companies LLC, and dated February 12, 2020.</p>
November 15, 2011 (SUP 11-7)	<p>1. Electric Meter Pedestal Placement Criteria for DAS Nodes, Dated October 27, 2011.</p> <p>2. Special Use Permit booklet dated October 18, 2011 with Amendments listed on Sheet Dated November 15, 2011.</p>
July 8, 2010 (SUP-10-4)	<p>1. DAS Master Plan for Paradise Valley, AZ Booklet dated June 24, 2010 (Exhibit B in Ordinance 625).</p>