

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF REDWOOD CITY TO AMEND  
REDWOOD CITY MUNICIPAL CODE CHAPTER 29 TO ADD ARTICLE  
VIII, "WIRELESS FACILITIES IN PUBLIC RIGHTS-OF-WAY"**

**WHEREAS**, pursuant to Article XI, section 7 of the California Constitution, the City of Redwood City, California ("City"), has the authority to adopt such ordinances as it deems necessary and appropriate to assure good government in the City, to protect and preserve the City's rights, property and privileges, and to preserve peace, safety and good order; and

**WHEREAS**, California Public Utilities Code Section 7901.1 gives the City the right to control, in a reasonable manner, the time, place, and manner, when applied equally, where telecommunications facilities can be located; and

**WHEREAS**, the Redwood City Municipal Code contains very minimal standards or regulations specifically designed to address the unique legal and/or practical issues that arise in connection with wireless telecommunications facilities deployed in the public rights-of-way; and

**WHEREAS**, the City deems it to be necessary and appropriate to provide for certain standards and regulations relating to the location, placement, design, construction and maintenance of telecommunications towers, antennas and other structures within the City's public rights-of-way, and providing for the enforcement of said standards and regulations, consistent with federal and state law limitations on that authority; and

**WHEREAS**, the City uses the public right-of-way within its City limits to provide essential public services to its residents and businesses. The public rights-of-way within the City are limited public resources held by the City for the benefit of its residents, and the City has a custodial duty to ensure that the public rights-of-way are used, repaired, and maintained in a manner that best serves the public interest; and

**WHEREAS**, while state and federal law limit the authority of local governments to enact laws that unreasonably discriminate among providers of functionally equivalent services, prohibit, or have the effect of prohibiting the provision of telecommunications services by wireless service providers, the City is authorized, under existing state and federal law, to enact appropriate regulations relative to small cell facilities, distributed antenna systems, and other wireless telecommunication facility installations in the public rights-of-way; and

**WHEREAS**, in anticipation of an increased demand from the wireless telecommunications industry to place small cell facilities, distributed antenna systems, and other wireless telecommunication facilities on utility poles and other structures in the public right-of-way, the City Council finds that it is in the best interests of the public health, safety and general welfare of the City to adopt the ordinance below in order to establish generally applicable standards for such facilities, systems, and installations within the public rights-of-way.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF REDWOOD CITY DOES ORDAIN AS FOLLOWS:**

SECTION 1: The foregoing Recitals are adopted as findings of the City Council of the City of Redwood City as though set forth in fully within the body of this ordinance.

SECTION 2: The City Council adopts this ordinance amending Chapter 29 of the Redwood City Municipal Code to add a new Article VIII, entitled "Wireless Facilities in Public Rights-Of-Way," as shown as Exhibit A attached hereto and incorporated herein by reference.

SECTION 3: The City Manager, or his or her designee, is directed to execute all documents and to perform all other necessary City acts to implement this ordinance.

SECTION 4: This ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines because it has no potential for resulting in physical change in the environment, directly or indirectly. The ordinance does not authorize any specific development or installation on any specific piece of property within the City's boundaries. Moreover, when and if an application for installation is submitted, the City will at that time conduct preliminary review of the application in accordance with CEQA. Alternatively, even if the ordinance is a "project" within the meaning of State CEQA Guidelines section 15378, the ordinance is exempt from CEQA on multiple grounds. First, the ordinance is exempt because the City Council's adoption of the ordinance is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. (State CEQA Guidelines, § 15061(b)(3)). That is, approval of the ordinance will not result in the actual installation of any facilities in the City. In order to install a facility in accordance with this ordinance, the wireless provider would have to submit an application for installation of the wireless facility. At that time, the City will have specific and definite information regarding the facility to review in accordance with CEQA. And, in fact, the City will conduct preliminary review under CEQA at that time. Moreover, in the event that the ordinance is interpreted so as to permit installation of wireless facilities on a particular site, the installation would be exempt from CEQA review in accordance with either State CEQA Guidelines section 15302 (replacement or reconstruction), State CEQA Guidelines section 15303 (new construction or conversion

of small structures), and/or State CEQA Guidelines section 15304 (minor alterations to land).

SECTION 5: If any section, subsection, provision, sentence, clause, phrase or word of this ordinance is for any reason held to be illegal or otherwise invalid by any court of competent jurisdiction, such invalidity shall be severable, and shall not affect or impair any remaining section, subsection, provision, sentence, clause, phrase or word included within this ordinance, it being the intent of the City that the remainder of the ordinance shall be and shall remain in full force and effect, valid, and enforceable.

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