

DRAFT 9/18/2020 *RLM*

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF SUNNYVALE TO AMEND SECTION 19.54.160
(TELECOMMUNICATION FACILITIES IN THE PUBLIC
RIGHT-OF-WAY) OF TITLE 19 (ZONING) OF THE
SUNNYVALE MUNICIPAL CODE.**

THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS
FOLLOWS:

SECTION 1. SECTION 19.54.160 AMENDED. Section 19.54.160 (Telecommunication Facilities in the Public Right-of-Way) of Chapter 19.54 (Wireless Telecommunication Facilities) of Title 19 (Zoning) is hereby amended to read as follows:

(a) – (d) [Text unchanged]

(e) Master agreement for use of city-owned poles. Any ~~company-person~~ that proposes to install a wireless facility on city light structures or other city-owned poles must ~~first initiate a lease (including lease rate) before making application for a planning permit.~~ enter an agreement with the city for a continuing encroachment under chapter 13.08.110 of this code. Facilities that are approved by the city engineer pursuant to such an agreement shall not be required to obtain a permit from the department of community development.

(f) [Text unchanged]

SECTION 2. CEQA - EXEMPTION. The City Council finds that the action being considered is exempt from California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15061(b)(3), as it has no potential for a significant effect on the environment. In addition, the updates are not a “project” within the meaning of CEQA under CEQA Guidelines, Sections 15378(b), because CEQA does not apply to general policy-making and adoption of procedures where there is no possibility that the activity in question will have a potential to result in direct or a reasonably foreseeable indirect physical change in the environment. The City Council further finds that actual installation of wireless facilities in the right-of-way is subject to the Class 3 CEQA Exemption for small structures (Section 15303 of the CEQA Guidelines). The Council therefore directs that the Planning Division may file a Notice of Exemption with the Santa Clara County Clerk in accordance with the Sunnyvale Guidelines for the implementation of CEQA adopted by Resolution No. 118-04.

SECTION 3. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 5. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on _____, 2020, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____

Mayor

(SEAL)

APPROVED AS TO FORM:

City Attorney