ATTACHMENT B

ORDINANCE NO._____

AN ORDINANCE AMENDING PROVISIONS OF CHAPTER 20, DIVISION I
OF THE MENDOCINO COUNTY CODE RELATING TO WIRELESS COMMUNICATIONS

The Board of Supervisors of the County of Mendocino, State of California, ordains as follows:

Pursuant to Division I of Title 20, Chapter 20.212 of the Mendocino County Code, the following amendments and additions to the Mendocino County Code are hereby adopted:

Section 1. The following new definitions are added to Section 20.008.020 Definition (A) in their respective alphabetical positions:

"Antenna" means a device used in communications designed to radiate and/or capture electromagnetic signals.

"Antenna, building-mounted" means any antenna attached to and supported by a building or other structure more than 10 feet tall, other than an antenna tower, i.e., the exterior walls of a building, an existing parapet, the side of a water tank, the face of a church steeple, or the side of a freestanding sign.

"Antenna, roof-mounted" means an antenna directly attached to the roof of an existing building, water tank, tower or structure other than an antenna tower.

"Antenna tower" means any pole, tower, or other structure, over 10 feet tall, erected for the purpose of supporting one or more antennas.

Section 2. The following new definition is added to Section 20.008.024 – Definitions (C) in its alphabetical position:

"Co-location" means the installation of antennas operated by different entities in close proximity so that use of substantial elements of the facility such as the antenna tower, equipment shelter or fenced enclosures are shared. Co-location includes replacement of an existing tower with one capable of supporting additional antennas provided the overall height of the facility is not increased.

Section 3. The following new definition is added to Section 20.008.060 – Definitions (W) in its alphabetical position:

"Wireless communication facility" means structures and/or equipment, including antennas, antenna towers, equipment cabinets, buildings, generators, fencing, access roads and the land upon which they are situated, associated with wireless communications.

Section 4. Section 20.236.015 - Prior Applications is hereby renamed "Exempt Facilities", and amended to read as follows:

The following wireless communication facilities are exempt from the requirements of this Chapter:

(A) Private communication equipment utilized for personal use such as private radio, television, internet or ham radio reception antennas. Such facilities shall be limited in height by Section 20.152.025.

(B) Small scale, low powered, short-range and visually inconspicuous, wireless internet transmitter/receivers (e.g., "wi-fi hotspots").

(C) Government-owned communications facilities used primarily to protect public health, safety and welfare.

(D) Facilities operated and used exclusively by providers of emergency medical services, including hospital, ambulance and medical air transportation services, for use in the provision of those services.

(E) Facilities operated and used exclusively by educational facilities for use in the provision of those services.

(F) Any facility specifically exempted under federal or state law as determined by the Director.

(G) Temporary facilities erected and operated for use in emergency situations which are approved in writing in advance of installation by the Director. Use of such facilities shall not exceed two weeks unless an extension is granted by the Director.

(H) The Director may exempt minor modifications to existing legal wireless communication facilities, if project is limited to replacing equipment with similar or with smaller or less visible equipment that will have little or no change in the visual appearance of the facility.

The exemptions set forth in this section shall apply only to facilities demonstrating radio-frequency emission compliance with the Federal Communications Commission's limits for human exposure to radio frequency electromagnetic fields. Facilities determined to be exempt from this Chapter are required to obtain necessary building permits prior to commencing work.

Except as specifically noted, the exempt facilities set forth in this section shall be limited in height by the applicable zoning district height standard.

Wherever feasible, developers shall be encouraged to locate and design the exempt facilities set forth in this section to minimize aesthetic impacts by designing the facility to be compatible with their surroundings so as to be visually unobtrusive.

<u>Section 5</u>. Section 20.236.020 - Private Antennas, is hereby renamed "Permit Process", and amended to read as follows.

(A) All projects that meet the definition of an "eligible facilities request" as defined in 47 C.F.R. 1.40001 shall be permitted upon the issuance of an Administrative Permit. Applications for an "eligible facilities request" shall be processed pursuant to the definitions, requirements and procedures set forth in 47 C.F.R. 1.40001, as may be amended from time to time; for the purpose of reviewing an "eligible facilities request," the definitions and procedures of 47 C.F.R. 1.40001 shall control and supersede any contrary definitions or procedures of this Chapter. Any guidelines or regulations adopted by the County regarding wireless communications facilities shall incorporate or make reference to the provisions of 47 C.F.R. 1.40001.

(B) Provided a project is consistent with the Development Standards found in Section 20.236.025, as determined by the Director, the following types of wireless communication facilities and associated uses are permitted upon the issuance of an Administrative Permit:

1. Additional antennas and associated equipment to be located upon an existing wireless communication facility.

2. Building-mounted antennas.

3. Roof-mounted antennas.

4. New wireless communication facility.

(C) All other proposed wireless communication facilities that do not qualify for an exemption or the Administrative Permit process must apply for a Major Use Permit or as otherwise prescribed in the County Zoning Code.

<u>Section 6</u>. Existing Section 20.236.025 – Validity is hereby renumbered and relocated to Section 20.236.040.

<u>Section 7</u>. A new Section 20.236.025 - Development Standards is hereby adopted to read as follows:

(A) Additional antennas and associated equipment to be located upon an existing wireless communication facility shall comply with all of the following standards:

1. The type and size of the new antennas, associated equipment, and any improvements shall be consistent with the requirements of the original use permit(s) and other governing permit(s).

2. The new antenna array shall not increase the height of the existing communication tower beyond what was approved by previous applicable permits.

3. The width of the proposed antenna array shall not exceed the width of the existing array or arrays.

4. The combined level of radio frequency radiation for all arrays shall not exceed the maximum permissible exposure level set by the Federal Communications Commission.

(B) Building-mounted antennas. Building-mounted antennas shall be located and designed to appear as an integral part of the structure. To this end, they must comply with the following standards:

1. The antenna and mountings shall not project more than 30 inches from the building surface to which it is mounted.

2. Building-mounted antennas shall not exceed the maximum building height for the zoning district.

3. Antennas, connections and supports shall be treated to match or complement the color scheme of the building or structure to which they are attached, if visible from off-site.

4. Antennas and connections shall not project more than 36 inches above the side of the building or structure upon which it is mounted.

5. Antennas, connections and supports shall be located on a legal structure that has obtained all necessary permits.

6. All equipment shelters, cabinets or other structures appurtenant to the facility shall be located either; 1) inside the building upon which facility is mounted, 2) on the ground outside the setback area or any required parking area, 3) on the roof or attached to building if screened from off-site views. Use of a fuel powered generator to power the site is prohibited unless evidence is provided that it will not be audible from beyond property boundaries.

7. The combined level of radio frequency radiation for all arrays does not exceed the maximum permissible exposure level set by the Federal Communications Commission.

8. Antennas mounted on the exterior walls of a building entirely below the roof line or parapet top may extend into any required yard setback a distance not exceeding two feet.

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(C) Roof-mounted antennas. Roof-mounted antennas shall be located and designed to appear as an integral part of the structure. To this end, they must comply with the following standards:

1. Roof-mounted antennas shall not exceed the maximum building height for the zoning district and shall not extend more than ten feet above existing roof line.

2. Antennas, connections and supports shall be treated to match or complement the color scheme of the building or structure to which they are attached, if visible from off-site.

3. Antennas, connections and supports shall be located on a legal structure that has obtained all necessary permits.

4. All equipment shelters, cabinets or other structures utilized or built in connection with the facility shall be located inside the building being utilized for the facility, or on the ground outside the setback area or any required parking area, or on the roof or attached to building if screened from off-site views. Use of a fuel powered generator to power the site is prohibited unless evidence is provided that it will not be audible from beyond property boundaries.

5. Roof-mounted antennas shall be located as far back from the edge of the roof as technically possible to minimize visibility from street level locations.

6. The combined level of radio frequency radiation for all arrays does not exceed the maximum permissible exposure level set by the Federal Communications Commission.

(D) New wireless communication facility**.** A new wireless communication facility shall be located and designed so as to be visually unobtrusive and effectively unnoticeable and shall not result in any adverse environmental impacts. To this end, they must comply with the following standards:

1. No part of the facility shall exceed 50 feet in height above ground level.

2. The wireless communication facility must be located in such a way as to have a backdrop of terrain which obscures the visibility of the facility and shall be discouraged on ridge top sites where they will be silhouetted against the sky from the surrounding community, or from highly used public locations Any such installation must also be found not to create the potential for adverse impacts from site development such as access limitations, significant vegetation removal, or operational impacts such as noise (from generators or other accessory equipment).

3. Every wireless communication facility, by itself and in combination with other nearby wireless communication facilities, shall comply with the Federal Communications Commission's limits for human exposure to radio frequency electromagnetic fields.

4. All exterior surfaces of structures and equipment associated with a wireless communications facility shall have subdued colors and non-reflective materials selected to blend with their surroundings.

5. Antenna towers shall not be built with guy wires in the absence of compelling evidence that there is no feasible construction alternative.

6. Towers shall not be so tall as to require Federal Aviation Administration lighting or markings.

7. Antenna towers shall be subject to setbacks required by the County Zoning Code and shall be setback a minimum of 110% of their overall height from any property line, and a minimum of 500% of the their overall height from any off-site residence or school. Tower setbacks in excess of setback requirements by the Zoning Code may be reduced under any one of the following circumstances:

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(a) All of the owners of affected properties agree to the reduced setback. A property is considered affected if its dwelling unit lies within a distance equivalent to the required setback for the subject tower prior to reduction and the reduced setback would result in the tower being located closer to the dwelling unit than the above setback would otherwise allow.

(b) Overall, the reduced setback enables greater mitigation of adverse visual and other environmental impacts than would otherwise be possible.

8. All wireless communications facilities shall comply with the applicable provisions of the California Building Code, California Electrical Code, California Plumbing Code, California Mechanical Code, California Fire Code, and rules and regulations imposed by state and federal agencies.

9. No trees that provide visual screening of the wireless communication facility shall be removed after project completion except to comply with fire safety regulations or to eliminate safety hazards. Tree trimming shall be limited to the minimum necessary for operation of the facility.

10. Use of a fuel powered generator to power the site is prohibited unless evidence is provided that it will not be audible from beyond property boundaries.

11. A road condition assessment for the wireless communication facility shall be required for any facility that relies on shared private road/access. When required, and prior to development of the site, the applicant shall provide to the Department, an assessment of the condition of the existing private road, serving the site to provide baseline data on the condition of the road. The assessment shall include photos and video as well as a written narrative to document the road's current or existing condition.

    Prior to activation of the facility, or at a later date established by the Planning Director, any damage to the road associated with construction activity shall be repaired to condition that is equal to or better than the existing road condition.

    Within two weeks after any road improvements are completed, the applicant shall provide to the Department, a post construction assessment of the condition of the private road serving the site to verify that adequate road repairs have been completed. The post assessment shall include photos and video as well as a written narrative to document the road's condition.

Notice of project shall be provided by the Department of Planning and Building Services to all property owners that use the shared private road.

<u>Section 8</u>. A new Section 20.236.030 - Noticing is hereby added to Chapter 20.236 to read as follows:

(A) Use permits for wireless communication facility. All noticing for hearings on use permit applications for wireless communications facilities shall be in accordance with the California Environmental Quality Act, except that notice shall be provided to all owners and occupants of real property within 1,000 feet of the site proposed for the facility. Expanded public notice may be provided for applications for new antenna towers when deemed necessary by the Director.

<u>Section 9</u>. A new Section 20.236.035 - Application Requirements is hereby added to Chapter 20.236 to read as follows:

The following items shall be required for each permit for a wireless communications facility.

(A) Use Permits

1. All application materials generally required for a use permit.

2. All materials listed in the County Guidelines for the Development of Wireless Communication Facilities.

3. The Director may waive submittal requirements or require additional information based on factors specific to an individual project. The Director may, at the applicant's expense, require independent peer review of any technical claims or data submitted as part of the review process.

(B) Administrative Permits

1. A description of the facility that includes:

   (a) The types of services to be provided by the applicant to its customers.

   (b) The numbers, types and dimensions of antennas and other equipment to be installed.

   (c) The power rating for all antennas and equipment.

   (d) A statement that the system will conform to radio frequency radiation emission standards adopted by the Federal Communications Commission.

2. A map showing the locations of all other existing and proposed antennas included in the applicant's system for provision of service within Mendocino County, showing the approximate area served by each antenna.

3. Evidence of ownership or authorization for use of the proposed site.

4. Evidence of easements or other authorization for proposed utility lines and for vehicular access between the site and a public road.

5. A site plan showing the location of all structures and equipment to be located on the site.

6. Elevations drawings of the facility including all structures and appurtenances.

7. The applicant shall submit any related information deemed necessary by the Director to determine that a proposed installation meets the Development Standards found in Section 20.236.035.

Passed and adopted by the Board of Supervisors of the County of Mendocino, State of California, on this_____ day of _____, 2014, by the following vote:

AYES:
NOES:
ABSENT:

WHEREUPON, the Chairman declared said Ordinance passed and adopted and SO ORDERED.

_____
CARRE BROWN, Chair
Mendocino County Board of Supervisors

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ATTEST: CARMEL J. ANGELO
Clerk of said Board

By:_____

APPROVED AS TO FORM:

DOUGLAS L. LOSAK, Interim County Counsel

By: _____

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