

**CITY OF RICE LAKE  
COUNTY OF ST. LOUIS**

**CITY POLICY REGULATING SMALL CELL WIRELESS FACILITIES  
IN THE PUBLIC RIGHT-OF-WAY.**

The City Council of the City of Rice Lake hereby establishes the following policy regarding the location of small cell wireless facilities in the City's rights of way.

**Section 1. Purpose.** The purpose of this policy is to regulate the siting of small cell wireless facilities in the public right-of-way.

**Section 2. Definitions.**

- A. **COLLOCATE OR COLLOCATION:** To install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within, or adjacent to an existing wireless support structure or utility pole that is owned privately, or by the City or other governmental unit.
  
- B. **MANAGEMENT COSTS:** The actual costs the City incurs in managing its rights-of-way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way or small wireless facility permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way or small wireless facility permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, unreasonable fees of a third-party contractor used by the City including fees tied to or based on customer counts, access lines, or revenues generated by the right-of-way or for the City, the fees and cost of litigation relating to the interpretation of Minnesota Session Laws 1997, chapter 123; Minnesota Statutes sections 237.162 or 237.163; or any ordinance enacted under those sections.
  
- C. **SMALL CELL WIRELESS FACILITY:** A wireless facility that meets both of the following qualifications:
  - 1. Each antenna is located inside an enclosure of no more than six (6) cubic feet in volume or could fit within such an enclosure; and
  - 2. All other wireless equipment associated with the small wireless facility provided such equipment is, in aggregate, no more than twenty eight

(28) cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment.

- D. **WIRELESS FACILITY:** Equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including equipment associated with wireless service, a radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and a small wireless facility, but not including wireless support structures, wireline backhaul facilities, or cables between utility poles or wireless support structures, or not otherwise immediately adjacent to and directly associated with a specific antenna.
- E. **WIRELESS SERVICE:** Any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. Wireless service does not include services regulated under title VI of the Communications Act of 1934, as amended, including cable service.
- F. **WIRELESS SUPPORT STRUCTURE:** A new or existing structure in a right-of-way designed to support or capable of supporting small wireless facilities, as reasonably determined by the City.

**Section 3. Permit.** No small cell wireless facility shall be placed in the City's rights of way without the owner or operator of such facility having first been issued a permit by the City. All permits shall be subject to the following conditions:

- A. **Small Wireless Facility Permit Fee:** The City shall impose a small wireless facility permit fee in an amount sufficient to recover:
  - 1. Management costs, and;
  - 2. City engineering, make-ready, and construction costs associated with collocation of small wireless facilities.
- B. **Conditions:** The City may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use. In addition, a permittee shall comply with all requirements of local, State and Federal laws, including but not limited to Minnesota Statutes

sections 216D.01 - .09 (Gopher One Call Excavation Notice System) and Minnesota Rules chapter 7560.

- C. **Small Wireless Facility Conditions:** In addition to the conditions described elsewhere in this policy, the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other installation of a small wireless facility in the right-of-way, shall be subject to the following conditions:
1. A small wireless facility shall only be collocated on the particular wireless support structure, under those attachment specifications, and at the height indicated in the applicable permit application.
  2. No new wireless support structure installed within the right-of-way shall exceed fifty feet (50') in height without the City's written authorization, provided that the City may impose a lower height limit in the applicable permit to protect the public health, safety and welfare or to protect the right-of-way and its current use, and further provided that a registrant may replace an existing wireless support structure exceeding fifty feet (50') in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit.
  3. No wireless facility may extend more than ten feet (10') above its wireless support structure.
  4. Where an applicant proposes to install a new wireless support structure in the right-of-way, the City may impose separation requirements between such structure and any existing wireless support structure or other facilities in and around the right-of-way.
  5. Where an applicant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, the City may impose reasonable requirements to accommodate the particular design, appearance or intended purpose of such structure.
  6. Where an applicant proposes to replace a wireless support structure, the City may impose reasonable restocking, replacement, or relocation requirements on the replacement of such structure.

**Section 4. Location on City Facilities.** A small wireless facility shall only be collocated on a small wireless support structure owned or controlled by the City, or

any other City asset in the right-of-way, after the applicant has executed a standard small wireless facility collocation agreement with the City. The standard collocation agreement may require payment of the following:

- A. Up to one hundred fifty dollars (\$150.00) per year for rent to collocate on the City structure.
- B. Twenty five dollars (\$25.00) per year for maintenance associated with the collocation.
- C. A monthly fee for electrical service as follows:
  - 1. Seventy three dollars (\$73.00) per radio node less than or equal to one hundred (100) maximum watts;
  - 2. One hundred eighty two dollars (\$182.00) per radio node over one hundred (100) maximum watts; or
  - 3. The actual costs of electricity, if the actual costs exceed the foregoing.
- D. The standard collocation agreement shall be in addition to, and not in lieu of, the required small wireless facility permit, provided, however, that the applicant shall not be additionally required to obtain a license or franchise in order to collocate. Issuance of a small wireless facility permit does not supersede, alter or affect any then-existing agreement between the City and applicant.

**Section 5. Processing of Applications.** Action On Small Wireless Facility Permit Applications:

- A. **Deadline For Action:** The City shall approve or deny a small wireless facility permit application within ninety (90) days after filing of such application. The small wireless facility permit, and any associated building permit application, shall be deemed approved if the City fails to approve or deny the application within the review periods established in this section.
- B. **Consolidated Applications:** An applicant may file a consolidated small wireless facility permit application addressing the proposed collocation of up to fifteen (15) small wireless facilities, or a greater number if agreed to by the City, provided that all small wireless facilities in the application:
  - 1. Are located within a two-mile radius;

2. Consist of substantially similar equipment; and
3. Are to be placed on similar types of wireless support structures.

In rendering a decision on a consolidated permit application, the City may approve some small wireless facilities and deny others, but may not use denial of one or more permits as a basis to deny all small wireless facilities in the application.

C. Tolling Of Deadline: The 90-day deadline for action on a small wireless facility permit application may be tolled if:

1. The City receives applications from one or more applicants seeking approval of permits for more than thirty (30) small wireless facilities within a seven-day period. In such case, the City may extend the deadline for all such applications by thirty (30) days by informing the affected applicants in writing of such extension.
2. The applicant fails to submit all required documents or information and the City provides written notice of incompleteness to the applicant within thirty (30) days of receipt of the application. Upon submission of additional documents or information, the City shall have ten (10) days to notify the applicant in writing of any still-missing information.
3. The City and a small wireless facility applicant agree in writing to toll the review period.

**Section 6. Standards.** Small cell wireless support structures and/or antennae located within any City right of way shall meet the following standards:

- A. No new wireless support structure shall be greater than 50 feet in height.
- B. No new wireless support structure shall be closer than 5 feet to a curb, driveway, or pedestrian way.
- C. No new wireless support structure shall be more than 5 feet from the side lot line extended to the street.
- D. To the extent possible, all antenna and equipment shall be shrouded and/or camouflaged.

- E. New wireless support structures shall be constructed from earth-tone fiberglass.
- F. All facilities shall use colors to minimize the visual impact when viewed from the public right-of-way and nearby properties, except in instances where the color is dictated by the federal or state authorities.
- G. Small cell wireless facilities shall be served by underground power and communication lines. The structure shall not be served by any above-ground power or communication lines.
- H. Equipment enclosures shall be screened from view with landscaping materials.
- I. If the proposed facility results in significantly increased sound levels, sound buffers may be required by the City, including but not limited to baffling, barriers, enclosures, walls, and plantings.
- J. Small cell facilities shall not be illuminated by artificial means and shall not display lights except as may be required by the Federal Aviation Administration regulations.
- K. The design of utility poles shall be similar in appearance to other poles located in the right-of-way.

Adopted by the City Council of the City of Rice Lake this 8<sup>th</sup> day of April, 2019.



John Werner, Mayor



Toni Blomdahl, City Clerk