

CITY OF APPLE VALLEY  
ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF APPLE VALLEY, MINNESOTA, AMENDING  
CHAPTER 97 OF THE CITY CODE REGARDING UTILITY SERVICE FACILITIES  
RIGHT-OF-WAY MANAGEMENT REGULATIONS

The City Council of Apple Valley ordains:

Section 1. Section 97.05 of the Apple Valley City Code is hereby amended to revise  
Section 97.05(C) to read as follows:

**§97.05 PERMIT REQUIREMENT.**

\* \* \* \*

(C) *Issuance of permit.*

(1) Except as otherwise provided herein for small wireless facility permits, If the applicant has satisfied the requirements of this Chapter, the city shall issue a permit within ninety (90) days of receiving a completed application, or shall provide written reasons for denial of the application if the city believes the requirements have not been satisfied, unless that time period is extended or tolled as specified in state law, (M. S. §237.163, Subd. 3c). If the city receives applications within a single seven-day period from one or more applicants seeking approval of permits for more than 30 ~~small-wireless~~ facilities, the city may extend the 90-day deadline by an additional 30 days. If the city elects to invoke this extension, it must inform in writing any applicant to whom the extension will be applied.

For applications related to placement of small wireless facilities, the deadline for the City's action on each application will be in accordance with FCC Rules and regulations. As in effect as of December 31, 2018, the City will review and act on an application for collocation of a small wireless facility on an existing support structure no later than 60 days from date of receipt of complete application and an application for placement of a small wireless facility on a new support structure no later than 90 days from date of receipt of complete application. If the applicant has satisfied the requirements of this Section, then a permit will be issued; otherwise the City shall provide written reasons for denial of the application.

(2) The city may deny a permit for the following reasons:

(a) The applicant failed to fully comply with the application requirements herein.

(b) The city has initiated revocation of a prior permit issued under this chapter against the applicant.

(c) The applicant has violated within the past two years any requirements of this chapter.

(d) The time schedule for the project will conflict or interfere with a community exhibition, celebration, festival, or any other similar community event in the area of the project.

(e) The time schedule for the project conflicts with scheduled public improvement of the public right-of-way.

(f) The proposed project violates a provision of this Code.

(g) The proposed project is adverse to the public health, safety, and welfare by interfering with the safety and convenience of ordinary travel over the public right-of-way, or endangers the public right-of-way and its users based on one or more of the following factors:

(1) The extent of public right-of-way area available;

(2) The competing demands for the particular proposed area space in the public right-of-way;

(3) The availability of other locations in the public right-of-way or in other public rights-of-way for the facility(s) or equipment of the permit applicant;

(4) The applicability of an ordinance or other regulation that affects the location of a facility or equipment in the public right-of-way;

(5) The applicant's prior compliance with the terms and conditions of its franchise, this section and other applicable ordinances and regulations;

(6) The condition and age of the public right-of-way and the city's scheduled reconstruction thereof; and

(7) The costs of disruption to the public and damage to the public right-of-way balanced against any benefits to the public served by an expansion into additional parts of the public right-of-way for facilities or equipment.

(h) The facilities proposed to be placed or deployed shall meet all conditions of the permit as set forth elsewhere in this Chapter.

Any denial of a right-of-way or small wireless facility permit must be made in writing and must set forth the basis for the denial. The city must notify the applicant in writing within three business days of the decision to deny or revoke a permit. If a permit application is denied, the applicant may cure the deficiencies identified by the city and resubmit its application. If the

applicant resubmits the application within 30 days of receiving written notice of the denial, it may not be charged an additional filing or processing fee. The city must approve or deny the revised application within 30 days after the revised application is submitted.

(3) Permit applications that propose collocation of facilities on city-owned poles, buildings, or other structures owned or under the control of the city shall be authorized by the Council upon terms and conditions established by the Council. A wireless service provider that is granted authority to collocate small wireless facilities on wireless support structures owned or controlled by the city and located within the public roads or rights-of-way is required to enter into a standard small wireless facility collocation agreement, but not an individual license, franchise, or other similar agreement with the local government unit or any other entity.

Any initial engineering survey and preparatory construction work associated with collocation must be paid by the cost causer in the form of a onetime, nonrecurring, commercially reasonable, nondiscriminatory, and competitively neutral charge to recover the costs associated with a proposed attachment.

Section 2. Section 97.06 of the Apple Valley City Code is hereby amended to revise §97.06(Y) and add §97.06 (AA) to read as follows:

**§97.06 CONDITIONS OF PERMIT AND REGISTRATION**

\* \* \* \*

(Y) Screening and Decorative Structures: The permittee shall screen all aboveground facilities and make reasonable accommodations for decorative ~~wireless~~ enclosures, support structures or signs, as required by the director of public works, to be aesthetically compatible with existing streetscape and the ornamental design or theme of the immediate area. Screening methods shall include the use of shrubs, trees and/or with landscape rock or installation using stealth or camouflaged forms of the facility. The director may also impose reasonable restocking, replacement, or relocation requirements when a new wireless support structure is placed in a public right-of-way. No equipment or facilities shall visibly or physically block or in any manner interfere with any existing streetscape, ornamental structures or displays, or other amenities located within the city's right of way.

\* \* \* \*

(AA) Any facility collocated on a city-owned support structure shall be of a color and design so to match the color, design and pattern of the existing support structure(s) and any replacement structures after the issuance of the permit. Any new support structure, and any facility located thereon, erected within a city-owned right of way shall be of a color and design so to match the color, design and pattern of existing structures (e.g. light/lampposts) and any replacement structures after the issuance of the permit.

Section 3. Summary approved. The City Council hereby determines that the text of the summary marked "Official Summary of Ordinance No. \_\_\_\_\_" a copy of which is attached hereto clearly informs the public of the intent and effect of the ordinance. The City Council further determines that publication of the title and such summary will clearly inform the public of the intent and effect of the ordinance.

Section 4. Filing. A copy of the ordinance shall be filed in the office of the City Clerk. This copy shall be available for inspection by any persons during regular office hours.

Section 5. Publication. The City Clerk shall publish the title of this ordinance and the official summary in the official newspaper of the City with notice that a printed copy of the ordinance is available for inspection by any person during regular office hours at the Office of the City Clerk.

Section 6. Effective date. This ordinance shall take effect upon its passage and the publication of its title and the official summary.

PASSED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Mary Hamann-Roland, Mayor

ATTEST:

\_\_\_\_\_  
Pamela J. Gackstetter, City Clerk

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The following is the official summary of Ordinance No. \_\_\_\_ passed by the City Council of Apple Valley on \_\_\_\_\_, 2018:

Chapter 97 of the City Code, governing public right-of-way management regulations, is amended to incorporate FCC Rule deadline for action on permit filed for small wireless facilities placement in public rights-of-way. The amendment provides additional aesthetics standards applicable to all utility service facilities located within city rights-of-way and on city-owned structures.

A printed copy of the ordinance is available for inspection by any person during regular office hours in the office of the City Clerk at the Apple Valley Municipal Center, 7100 147th Street W., Apple Valley, Minnesota 55124.