

**CITY OF WEST ST. PAUL  
DAKOTA COUNTY, MINNESOTA**

**ORDINANCE NO. 19-01**

**AN ORDINANCE AMENDING CHAPTER 95 OF THE WEST ST. PAUL CITY CODE  
RELATING TO SMALL WIRELESS FACILITIES**

The City Council of West St. Paul does ordain:

**SECTION 1. AMENDMENT.** West St. Paul City Code Chapter 95 is amended as follows:

**§ 95.24 ISSUANCE OF PERMIT; CONDITIONS.**

(A) *Permit issuance.* If the applicant has satisfied the requirement of this subchapter, the city shall issue a permit.

(B) *Conditions.* The city may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the public health, safety and welfare of when necessary to protect the right-of-way and its current use. A permittee must comply with all conditions of the permit.

(C) *Small Wireless Facility or Small Wireless Support Structure Permit Conditions.* The city desires high quality wireless services to accommodate the needs of residents and businesses. At the same time, the city strives to minimize the negative impacts that small wireless facilities can create. These negative impacts include, but are not limited to, interference with right-of-way user sight lines, impacts to right-of-way user circulation, incompatible aesthetics with the surrounding area, fall zone risk, clear zone risk, creating navigation obstacles, interference with future travel way expansion plans, interference with the delivery of other utility services, interference with stormwater management facilities and increased noise pollution. In addition to any conditions imposed pursuant to 95.24(B), the erection or installation of a small wireless facility in the right-of-way shall be subject to the following conditions:

(1) Location. To preserve the significant financial investment made by the city in the public improvements and aesthetic enhancements surrounding the landscaping, special lighting fixtures, decorative fencing, pedestrian friendly walkways and similar amenities, for Robert Street, all small wireless facilities shall be collocated on an existing wireless support structure or located on a new wireless support structure that replaces an existing wireless support structure that substantially complies with Figure 1. For all other rights-of-way in the city, in order to protect the public health, safety and welfare, approval for the location of small wireless facilities and support structures shall be preferred in the following order:

(a) Collocating on existing wireless support structures within the right-of-way.

- (b) Locating on a new wireless support structure within the right-of-way that replaces an existing wireless support structure of the same height.
- (c) Locating on a new wireless support structure within the right-of-way that replaces an existing wireless support structure whose height is less than or equal to 50 feet.
- (d) Locating on a new wireless support structure within the right-of-way whose height is similar to nearby structures.
- (e) Locating on a new wireless support structure within the right-of-way whose height is less than 50 feet.

(2) Other Requirements.

- (a) To avoid excessive clutter visible from public areas, any new wireless support structure shall be separated from other wireless support structures by a minimum of six hundred (600) feet.

~~(1) A small wireless facility shall only be located on the particular wireless support structure, under those attachment specifications, and at the height specified that is included in the approved permit application.~~

- (b) No new wireless support structure that is installed within the right-of-way shall exceed 50 feet in height, provided that the city may reduce the height to protect the public health, safety and welfare or to protect the right-of-way and its current use.

- (2)(c) Any new wireless support structure installed on Robert Street shall be of the same design and look to the existing light standard support structures on Robert Street depicted at Figure 1, the architectural details of which are on file with the City.

~~(3) 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.~~

- (4)(d) When an applicant proposes to replace an existing wireless support structure with a structure of the same height and the existing wireless support structure exceeds 50 feet in height, the city may impose conditions or requirements to protect the public health, safety or welfare or to protect the right-of-way and its current use.

- (5)(e) The city may impose reasonable conditions on the applicant to accommodate the particular design, appearance or intended purpose of the wireless support structure to

protect adjacent properties or existing structures. If located in a residential zoning district, all attachments shall be positioned so as to be the least visible from nearby residences.

~~(6)(f)~~ When an applicant proposes collocation on a public utility structure, the small wireless facility shall not block light emanating from the structure or otherwise interfere with the intended purpose of the structure.

~~(7)(g)~~ All wireless support structures shall be reasonably protected against unauthorized climbing. The base of the tower to 12 feet above ground level shall be designed in a manner to discourage unauthorized climbing.

~~(8)(h)~~ There shall be no advertising or identification of any kind on the wireless support structures, except for warning signs or signs related to equipment information that is required by the manufacturer, or by federal, state or local regulations. The use of any such warning signs or stickers shall be the smallest and lowest visibility radio frequency warning sticker and/or node identification sticker allowed by government or by utility regulations and shall be the same color as the support structure.

~~(i)~~ Small wireless facilities shall not be illuminated by artificial means, except when mounted on an existing light pole, or when required by federal, state or local regulations. or when the lighting is part of a camouflage design of the support structure.

~~(9)(j)~~ For wireless support structures made of metal, all wiring shall be mounted on the interior of the support structure so that there is no exposed wiring. For wireless support structures made of wood, wiring may be surface-mounted but shall be enclosed in conduit that matches the color of the support structure. A minimal amount of wiring may be exposed from the attachments to the support structure.

~~(10)(k)~~ No wireless facility may extend more than 10 feet above its wireless support structure or more than two and a half feet outward from the wireless support structure.

~~(11) ——— When an applicant proposes to replace a city owned wireless support structure, the city may impose reasonable restocking, replacement, or relocation requirements on the replacement of such structure.~~

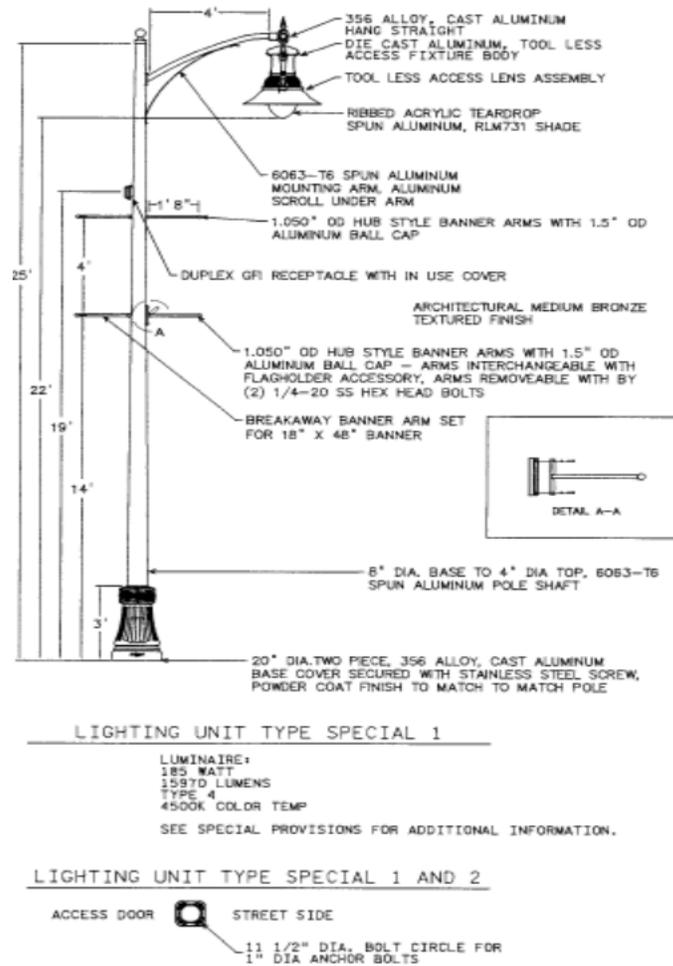
~~(l)~~ Any ground equipment related to small wireless facilities must be placed underground, in compliance with section 95.33, and ~~at a location~~ must be approved by the City Engineer.

~~(m)~~ The diameter of a new wireless support structure that replaces an existing wireless support structure shall not exceed the diameter of the existing wireless support structure by more than fifty percent (50%).

(12)(n) Non-reflective, matte and anti-graffiti painting shall be required on all small wireless facilities. All attachments shall match the color of the support structure. Any fasteners shall be made of stainless steel or of corrosive-resistant material.

(13)(o) Small wireless facilities and wireless support structures must comply with all federal, state and local regulations.

*Figure 1*



(D) *Small Wireless Facility Collocation Agreement.* If a small wireless facility is to be collocated on a small wireless support structure owned or controlled by the city, or any other city-owned asset or infrastructure in the right-of-way, it may only do so after the applicant has executed a standard small wireless facility collocation agreement with the city. The standard collocation agreement may require the following payments for each city-owned structure:

- (1) Up to \$150 per year for rent;

- (2) \$25 per year for maintenance;
- (3) A monthly fee for electrical service as follows:
  - (a) \$73 per radio node less than or equal to 100 maximum watts;
  - (b) \$182 per radio node over 100 maximum watts; or
  - (c) The actual costs of electricity, if the actual cost exceeds the foregoing.

(4) When an applicant proposed to replace a city-owned wireless support structure, the city may impose reasonable restocking, replacement, or relocation requirements on the replacement of such structure.

Such costs and payments may be automatically adjusted pursuant to the amounts set forth in Minn. Stat. § 237.163, Subd. 6(g), or as may be amended from time to time. The standard collocation agreement shall be in addition to, and not in lieu of, the required small wireless facility permit.

(E) *Action on Small Wireless Facility Permit Applications.*

- (1) The city shall approve or deny a small wireless facility permit application within ~~90 days after filing of such application~~ 60 days after filing of such application for an existing structure and 90 days for a new wireless support structure For applications involving both new and existing structures, the longer deadline applies. 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.
- (2) *Consolidated Applications.* An applicant may file a consolidated small wireless facility permit application addressing the proposed collocation of up to ~~5~~ small wireless facilities, or a greater number if agreed to by the city, provided that all small wireless facilities in the application:
  - (a) Are located within a two-mile radius;
  - (b) Consist of substantially similar equipment; and
  - (c) 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 sites 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.

- (3) *Tolling of Deadline.* The ~~90-day~~ deadline for action on a small wireless facility permit

application may be tolled if:

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

(F) An approval of a small wireless facility permit under this section authorizes the installation, placement, maintenance, or operation of a small wireless facility to provide wireless service and shall not be construed to confer authorization to (1) provide any service other than a wireless service, or (2) install, place, maintain, or operate a wireline backhaul facility in the right-of-way.

**SECTION 2. SUMMARY PUBLICATION.** Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance:

The ordinance amends the City's Right-Of-Way Ordinance to provide for more specific aesthetic requirements related to the appearance of wireless support facilities in the rights-of-way.

**SECTION 3. EFFECTIVE DATE.** This Ordinance will be in full force and effect from and after its passage and publication according to law.

Passed by the City Council of the City of West St. Paul, Minnesota, this 11<sup>th</sup> day of February 2019.

Attest:

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David J. Napier, Mayor

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Shirley R Buecksler, City Clerk