TOWN of MAY
WASHINGTON COUNTY, MINNESOTA

Ordinance No. 2019-02

AN ORDINANCE AMENDING THE MAY TOWN CODE
MODIFYING THE TOWN'S STANDARDS FOR
SMALL CELL WIRELESS FACILITIES

Section 1. Findings.

WHEREAS, the Federal Communications Commission made a declaratory ruling on September 26, 2018 that results in necessary modifications to the Town of May's right-of-way use ordinance; and

WHEREAS, in the interest of public safety and health, the Town also adopts certain aesthetic and safety standards for small cell wireless facilities and wireless support structures.

NOW THEREFORE, THE TOWN BOARD OF THE TOWN OF MAY, WASHINGTON COUNTY, MINNESOTA DOES ORDAIN:

Section 2. Code Amended. Section 602.14.H.2 is hereby amended to read as follows:

2. Conditions. The Town 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 §§ 216D.01 - .09 (Gopher One Call Excavation Notice System) and Minnesota Rules Chapter 7560. In addition, 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:

a. 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.

b. No new wireless support structure installed within the right-of-way shall exceed 50 feet in height, provided that the Town 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 50 feet in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit.

c. No wireless facility may extend more than 10 feet above its wireless support structure.
d. Where an applicant proposes to install a new wireless support structure in the right-of-way, the Town may impose separation requirements between such structure and any existing wireless support structure or other facilities in and around the right-of-way. In no case shall a new wireless support structure be located within three hundred (300) feet of any existing wireless support structure in and around the right-of-way.

e. No new support structures shall be placed less than 5 feet from the street curb, edge of street pavement, edge of driveway, or edge of pedestrian ways.

f. Where an applicant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, the Town may impose reasonable requirements to accommodate the particular design, appearance or intended purpose of such structure.

g. Any initial engineering survey and preparatory construction work association with collocation shall be paid by the applicant.

h. All facilities and support structures shall use design, materials, colors, textures, screening, and landscaping to blend in within the surrounding natural setting and built environment. All facilities shall be designed to minimize the visual impact and, in the sole discretion of the Town, appear to be compatible with the surroundings.

i. No lights, reflectors, flashers, or other illuminating devices shall be affixed to any small wireless support structure except as required by the Federal Aviation Administration, Federal Communications Commission, or the Town.

j. Brackets supporting small wireless facilities shall be designed to minimize the appearance and profile of the facilities. Bracket colors and materials shall match the wireless support structure they are attached to.

k. No stickers, signs, or decals shall be visible on any small wireless facility or wireless support structure, except (i) safety alerts required by law, (ii) one sign not over ten square inches indicating the name of the manufacturer or installer, or (iii) a banner, sign, or decoration affixed by the Town.

l. At the request of the Town, a new or replacement wireless support structure may be required to match the original and/or surrounding poles in width, design, structure, and materials.

m. Any cabinets placed on the ground shall be screened with landscaping materials.

n. No wireless structure shall have constructed on it, or attached to it, in any way, any platform, catwalk, crow’s nest or similar structure, except structures necessary for the maintenance of small wireless facilities.

o. Wireless support structures and small wireless facilities shall be grounded for protection against a direct strike by lightning and shall comply, as to electrical wiring and connections, with all applicable provisions of this Code.

p. Small wireless facilities and/or wireless support structures shall not be located in a position that disrupts traffic or pedestrian circulation or interferes with vehicular or pedestrian sight lines.

q. All facilities shall be designed to prevent unauthorized climbing or entry.

r. All facilities shall be maintained in good condition, appearance, order, and repair.

s. Permits shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the Town.
t. 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.

u. A right-of-way user shall promptly and at its own expense, with due regard for seasonal limitations, temporarily or permanently remove and relocate its small wireless facilities and wireless support structures in the right-of-way when it is necessary to prevent interference, and not merely for convenience of the city, in conjunction with: (i) a present or future city use of the right-of-way for a public project; (ii) the public health or safety; (iii) the safety and convenience or travel over the right-of-way.

Section 3. Code Amended. Section 602.14.I is hereby amended to read as follows:

I. Action on Small Wireless Facility Permit Applications.

1. Deadline for Action. The Town shall approve or deny a small wireless facility permit application within 60 days after filing of a complete application. The Town shall approve or deny a small wireless facility permit application for construction of a new wireless support structure within 90 days after filing of a complete 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 90 days of receipt of a complete application.

2. Consolidated Applications. An applicant may file a consolidated small wireless facility permit application addressing the proposed collocation of up to 15 small wireless facilities, or a greater number if agreed to by a local government unit, 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 Town 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.

3. Tolling of Deadline. The deadline for action on a small wireless facility permit application may be tolled if:

   a. The Town 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 Town 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 Town provides written notice of incompleteness to the applicant within 30 days of receipt the application. Upon submission of additional documents or information, the Town shall have ten days to notify the applicant in writing of any still-missing information.
c. The Town and a small wireless facility applicant agree in writing to toll the review period.

Section 4. Effective Date.
This ordinance shall be in full force and effect from and after its passage and publication according to law.

Section 5. Severability.
If any part of this ordinance is held invalid by a court of competent jurisdiction, this shall not invalidate any other section, provision or part thereof.

BY ROLL CALL VOTE OF THE MAY TOWN BOARD: ADAMS Y E S; PAZLA R Y E S; VOEDISCH Y E S; THIS ORDINANCE IS HEREBY ADOPTED ON THIS 4TH DAY OF APRIL, 2019

Attest: Linda Tibbetts, Clerk/Treasurer

Board Chair, Bill Voedisch