



# City of Apple Valley Small Cell Application/Permit

APPLICANT NAME		APPLICANT COMPANY		APPLICANT PHONE (direct)	
APPLICANT EMAIL			OWNER OF PROPOSED SUPPORT STRUCTURE/POLE		
WIRELESS PROVIDER NAME			WIRELESS PROVIDER PHONE		
BILLING ADDRESS		CITY	STATE	ZIP	
GOPHER STATE ONE-CALL REGISTRATION NUMBER		24-HOUR EMERGENCY CONTACT NUMBER			
LOCATION LIMITS (describe specific sites on page two, up to 15 sites/permit)					
<p><b>DESCRIPTION OF WORK</b> (attach additional pages if needed)</p> <p>Is a conditional use permit required? (Select an answer)</p> <p>A. Yes. Applicant shall work through the Planning department to obtain.</p> <p>B. No. If no, select reason(s) for exemption:</p> <p>1. Meets standards of City Code Section 17.70(d)      2. Using existing pole      3. Pole site is zoned non-residential</p>					
<p><b>ACKNOWLEDGMENT</b></p> <p><i>By signing this application, I (the applicant/company) hereby acknowledge that I must adhere to all provisions of City of Apple Valley Ordinance Chapter 97 and any other applicable city ordinances and state and federal laws, including Minnesota Statutes Sections 237.162 and 237.163, in addition to the terms and conditions which are attached to this document. I shall also comply with the regulations of all other governmental agencies for the protection of the public.</i></p> <p><b>SIGNATURE:</b> _____ <b>DATE:</b> _____</p> <p><b>TITLE:</b> _____</p>					

**REQUIRED DOCUMENTS TO APPLY:**

- |   |   |
|---|---|
| <input type="checkbox"/> Permit Fee<br><br><input type="checkbox"/> (1) set of construction plans signed by a P.E. and (1) electronic copy<br><input type="checkbox"/> Performance bond on file and certificate of insurance<br><br><input type="checkbox"/> Design plan/route for backhaul, signed by P.E. | <input type="checkbox"/> Structural study<br><br><input type="checkbox"/> Radio frequency emission certification<br><br><input type="checkbox"/> Copy of permit from pole owner if owned by an agency other than the City of Apple Valley (if applicable) |
|---|---|

FOR OFFICE USE ONLY	
APP REC'D:	PERMIT FEE REC'D: _____ AMOUNT: _____
ZONING DISTRICT:	PERMIT NUMBER
SIGNATURE:	PERMIT ISSUE DATE:
TITLE:	APPROVED   DENIED

SMALL CELL PERMIT NOT VALID UNLESS SIGNED BY CITY OF APPLE VALLEY ENGINEERING STAFF

**SITE SUMMARY**

*By statute, applicant may collocate up to 15 small wireless facilities if they are within a two mile radius, consist of substantially similar equipment, and are to be placed on similar types of wireless support structures.*

SITE	DESCRIPTION	PERMIT FEE (\$780/UNIT)
01		
02		
03		
04		
05		
06		
07		
08		
09		
10		
11		
12		
13		
14		
15		
TOTAL PERMIT FEE DUE FOR LOCATION		\$

## SMALL CELL PERMIT TERMS AND CONDITIONS

### 1. INSTALLATION OF EQUIPMENT

#### 1.1. Permits

- 1.1.1. Small Cell Application: Prior to the approval of installation of equipment, APPLICANT shall submit to the City Engineer or designee, a sketch of the proposed location for the new equipment ("Equipment Plan"). The City Engineer or designee will review the sketch to determine whether the wireless support structure is owned by the City.
- 1.1.2. The Small Cell Application shall include the following:
  - 1.1.2.1. Completed permit application and fee;
  - 1.1.2.2. Performance bond on file and proof of insurance;
  - 1.1.2.3. Construction plans as described in section 1.2 below;
  - 1.1.2.4. Structural study described in section 1.2.2. below;
  - 1.1.2.5. Design plan and/or route for backhaul facilities, signed by a P.E.; and
  - 1.1.2.6. Copy of permit from wireless support structure owner if owned by an agency other than the City of Apple Valley (if applicable).
- 1.1.3. APPLICANT shall comply with the applicable provisions of 47 CFR §§ 22.970-973 and 47 CFR §§ 90.672-675 respectively, which define unacceptable interference, state the obligations of licensees to abate unacceptable interference, provide interference resolution procedures, and set forth a discretionary information exchange between public safety licensees and other licensees.
- 1.1.4. APPLICANT shall demonstrate compliance with applicable Federal Communications Commission (FCC) regulations governing radio frequency exposure. APPLICANT can satisfy this requirement by either demonstrating that its facilities are categorically excluded under 47 CFR 1.1307(b)(1) or otherwise illustrating that its wireless facilities will operate within the applicable FCC exposure limits by providing a Radio Frequency Emission Certification upon request.
- 1.1.5. APPLICANT shall implement all measures at the transmission site required by FCC regulations, including but not limited to posting signs and markings. CITY shall cooperate with APPLICANT to fulfill its Radio Frequency exposure obligations. CITY agrees that in the event any future party causes the entire site to exceed FCC Radio Frequency radiation limits, as measured on the wireless support structure, CITY shall hold such future party liable for all such later-arising non-compliance.
- 1.1.6. Other City Permits: In addition to the Small Cell Permit, which is only approved to attach equipment to a wireless support structure, the APPLICANT must apply for any additional permits for all appurtenant equipment or facilities required for the Small Cell Application. Said permits may include, but not necessarily be limited to: Right-of-Way obstruction/excavation; Electrical, Stormwater, Conditional Use Permits, etc.
- 1.1.7. Other Applicable Permits: It is the APPLICANT's responsibility to determine if permits are required by governmental agencies and apply for those permits.
- 1.1.8. Applicable fees for all permits shall be borne by the APPLICANT and the APPLICANT shall be bound by the requirements of said permits.

#### 1.2. Construction Plans

For Small Cell Permit application, or additions thereto, APPLICANT shall provide the City Engineer or designee as set forth in 1.1.2, each with two (2) sets of construction plans ("Construction Plans") consisting of the following:

- 1.2.1 CAD drawings showing the location and materials of all planned installations, including field verified existing utilities;
- 1.2.2 Structural Study: Complete an analysis of the existing wireless support structure or replacement pole to determine if the structure/pole has sufficient strength to support the small wireless facility which is propose to be attached/affixed to it. Study shall have affixed to it the signature of the APPLICANT's Engineer who shall be licensed in Minnesota pursuant Minnesota Rule 1800.4200 and Minnesota Statutes Chapter 326.
- 1.2.3 Construction Specifications and Product Specifications for all planned installations;
- 1.2.4 Diagrams and Shop Drawings of proposed small wireless facility; and
- 1.2.5 A complete and detailed inventory of all equipment and personal property of APPLICANT actually placed on the wireless support structure. CITY retains the right to survey the installed equipment.

Construction Plans shall be easily readable, no construction shall commence until permit is granted by the City Engineer or designee. Final Plans shall have affixed to them the signature of the APPLICANT's Engineer who shall be licensed in Minnesota pursuant Minnesota Rule 1800.4200 and Minnesota Statutes Chapter 326.

**1.3. Construction Inspection**

All construction activity shall be subject to inspection and approval by the CITY's representative(s). Inspection will be performed at project completion. APPLICANT shall be solely responsible for all costs, in excess of those included in the permit fee, associated with said inspection and approval of construction work by CITY.

**1.4. Exposed Antenna Facilities**

APPLICANT must ensure that all Wireless Facilities which have exterior exposure shall match the color of the wireless support structure. For exposed cables, wires, or appurtenances, the APPLICANT shall ensure that cables, wires or appurtenances are placed in conduit which shall match the color of the wireless support structure.

**1.5. New Wireless Support Structures**

1.5.1. If APPLICANT installs a new wireless support structure APPLICANT shall match the original and surrounding public utility structures in materials, color, style and or architectural design.

1.5.2. New wireless support structures shall be separated from other wireless support structures by a minimum of six hundred (600) feet.

**1.6. Damage by APPLICANT**

Any damage to the right of way, or CITY's equipment thereon caused by APPLICANT's permitted installation or operations shall be repaired or replaced at APPLICANT's expense and to CITY's reasonable satisfaction.

**1.7. Gopher State One Call**

APPLICANT shall register with Gopher State One Call and comply with the requirements of that system.

**1.8. As-Built Drawings ("As-Built" or "As-Built")**

Within thirty (30) days after APPLICANT activates the small wireless facility, APPLICANT shall provide CITY with an As-Built drawing in CAD format consisting of As-Built drawings of the small wireless facility installed on each permitted location and any improvements installed on the wireless support structure, which shall show the actual location of all equipment and improvements. Said drawings shall be accompanied by a complete inventory of all equipment and Antenna Facilities.

**2. MAINTENANCE AND REPAIR OF EQUIPMENT**

**2.1. Emergency Maintenance and Repair**

The CITY retains the right to shut off power for the Wireless Facilities at the source in any and all cases of emergency, as determined by the CITY.

**2.2. Wireless Support Structure Reconditioning and Repair**

2.2.1. CITY reserves the right to take any action it deems necessary, in its sole and reasonable discretion, to repair, maintain, alter, or improve the right of way in connection with CITY's Operations ("ROW Work"). From time to time, CITY paints, reconditions, or otherwise improves or repairs the wireless support structure in a substantial way ("Reconditioning Work"). APPLICANT shall cooperate with CITY to carry out ROW and Reconditioning Work.

2.2.2. Except in cases of emergency, prior to commencing ROW or Reconditioning Work, CITY shall provide APPLICANT with not less than thirty (30) days prior written notice thereof. City will send notice to the address provided on this permit application. It shall be the sole responsibility of APPLICANT to provide adequate measures to cover or otherwise protect APPLICANT's Wireless Facilities from the consequences of such activities, including but not limited to paint and debris fallout. CITY reserves the right to require APPLICANT to remove all Wireless Facilities from the wireless support structure and right of way during ROW or Reconditioning work.

2.2.3. CITY will power off Wireless Facilities prior to commencing routine maintenance of any wireless support structure. Except in cases of emergency, prior to commencing maintenance work, CITY shall provide APPLICANT with not less than thirty (30) days prior written notice thereof.

2.2.4. During CITY's ROW or Reconditioning Work, APPLICANT may request a mobile site on the right of way. If site will not accommodate mobile equipment, it shall be APPLICANT's responsibility to locate auxiliary sites.

**2.3. Relocation of Wireless Support Structure**

When directed by the City a right-of-way user shall relocate all of its facilities within the rights-of-way according to Apple Valley City Code, Section 17.81.01 RELOCATION OF FACILITIES, as amended from time to time.

#### 2.4. Restocking of Non-Standard Wireless Support Structure

APPLICANT shall provide the CITY with replacement non-standard wireless support structures at a ratio of at least one replacement wireless support structure per each set of five or fewer identical non-standard wireless support structures installed. Non-standard wireless support structures are any structures to be owned by the CITY that are requested by the APPLICANT to support a wireless facility that are not otherwise installed or stocked by the CITY.

### 3. CONDITION OF WIRELESS SUPPORT STRUCTURE

- 3.1. The CITY will keep and maintain the wireless support structure in good repair as required for the CITY's intended use and in the ordinary course of business as the CITY budget permits. CITY makes no guarantee as to the condition of any wireless support structures with regard to APPLICANT's intended use.
- 3.2. APPLICANT shall, at its own cost and expense, maintain the small wireless facility in good and safe condition, and in compliance with applicable fire, health, building, and other codes. The APPLICANT shall obtain from the CITY any and all permits required for the purposes of maintaining the installation. Applicable fees for any permits shall be borne by the APPLICANT and the APPLICANT shall be bound by the requirements of said permits.

### 4. TERM; RENTAL

- 4.1. To reimburse CITY for its costs related to the management of the wireless support structure, APPLICANT shall pay the CITY a Base Rent ("Base Rent") equal to One Hundred Seventy-Five and No/Dollars (\$175.00) per year for rent and maintenance for each wireless facility APPLICANT has located upon a City-owned support structure. APPLICANT shall furnish and install an electrical meter at the wireless support structure for the measurement of electrical power used by the APPLICANT's installation and shall pay the electric service provider directly for the cost of electricity used by the APPLICANT. The utilities installed by the APPLICANT must not interfere with the City's use of the support structure or that of City's other tenants, licensees, employees, invitees, agents or guests and must be relocated at APPLICANT expense if they interfere with future use by City. City shall not be responsible for any damages which occur as a result of interruption of utility services.
- 4.2. On all permits with an Issue Date from January 1 to June 30, the first year's Base Rent shall be the full amount of One Hundred Seventy-Five and No/Dollars (\$175.00.) The first year's Base Rent for permits with an Issue Date from July 1 to December 31 shall be prorated to One Hundred and No/Dollars (\$100.00.) Subsequent to the initial payment, the Base Rent due hereunder for all subsequent years shall be paid prior to March thirty-first (31<sup>st</sup>) of each succeeding year.

### 5. INSURANCE

- 5.1. **Worker's Compensation:** The APPLICANT must maintain Workers' Compensation insurance in compliance with all applicable statutes. The policy shall also provide Employer's Liability coverage with limits of not less than \$500,000 Bodily Injury by disease, each employee, per accident.
- 5.2. **General Liability:** The APPLICANT must maintain occurrence form commercial general liability coverage.
  - 5.2.1. Such coverage shall include, but not be limited to, bodily injury, property damage – broad form, and personal injury, for the hazards of Premises/Operation, broad form contractual liability, property damage liability, and independent contractors.
  - 5.2.2. The APPLICANT must maintain aforementioned commercial general liability coverage with limits of liability not less than \$1,500,000 per occurrence; \$3,000,000 minimum general aggregate and \$2,000,000 products and completed operations aggregate. To meet the Commercial General Liability (CGL) requirements, the APPLICANT may use a combination of the underlying CGL coverage and Excess or Umbrella coverage.
  - 5.2.3. APPLICANT will maintain Completed Operations coverage for a minimum of two (2) years after the construction is completed.
- 5.3. **Automobile Liability:** The APPLICANT must maintain Commercial Automobile Liability coverage with limits of liability of not less than \$1,500,000 per occurrence; \$3,000,000 general aggregate. To meet the Commercial Automobile Liability requirements, the APPLICANT may use a combination of underlying Automobile Liability Coverage and Excess or Umbrella coverage.

- 5.3.1. Coverage shall be provided by Bodily Injury and Property Damage for the ownership, use, maintenance or operation of all owned, non-owned and hired automobiles.
- 5.3.2. The Commercial Automobile Policy shall include at least statutory personal injury protection, uninsured motorists and underinsured motorists coverages.

- 5.4. **APPLICANT Property Insurance:** The APPLICANT must keep in force for the duration of the Permit a policy covering damages to its property in the right of way. The amount of coverage shall be sufficient to replace the damaged property, loss of use and comply with any ordinance or law requirements, but be in an amount equal to or greater than \$1,000,000. APPLICANT may self-insure this coverage and will provide written verification of said self-insurance to the City, prior to the execution of the Agreement.
- 5.5. **Adjustment to Insurance Coverage Limits:** The APPLICANT's coverage limits set forth herein shall be increased every five years following installation of the small wireless facility by twenty-five percent (25%) over the preceding five years. Alternatively, instead of such periodic coverage limit increases, during the entire term of this Agreement, APPLICANT may maintain an umbrella or excess liability insurance policy with a combined single limit of \$5,000,000.00 per occurrence, and CITY will be named as an additional insured under such policy.
- 5.6. **Additional Insured – Certificate of Insurance:** The APPLICANT shall provide, prior to tenancy and/or start of work, evidence of the required insurance in the form of a Certificate of Insurance issued by a company (rated B+ (VIII) or better), licensed to do business in the State of Minnesota, which includes all coverage required in this Section 4. **APPLICANT will name the CITY as an Additional Insured on its General Liability, and Commercial Automobile Liability policies, as well as Umbrella or Excess Liability policies if used to meet the insurance requirements of this permit.** The following language should be used: "The City of Apple Valley is named as an additional insured with respect to the commercial general liability, commercial automobile liability and excess or umbrella, as required by the permit. The umbrella or excess liability policy follows form on all underlying coverages." APPLICANT shall provide at least thirty (30) days prior written notice to the CITY of cancellation or non-renewal of any required coverage that is not replaced. APPLICANT will provide a certificate of insurance naming the CITY as an Additional insured as required above with any new company.

5.7. **Defense and Indemnification:**

- 5.7.1. APPLICANT agree to defend, indemnify, and hold harmless CITY and its elected officials, directors, officers, employees, agents, and representatives, from and against any and all claims, costs, losses, expenses, demands, actions, or causes of action, including reasonable attorneys' fees and other costs and expenses of litigation, which may be asserted against or incurred by CITY or for which CITY may be liable in the performance of this Agreement, except those which arise solely from negligence or willful misconduct of CITY, its elected officials, directors, officers, employees, agents, representatives or contractors.
- 5.7.2. APPLICANT shall defend, indemnify, and hold CITY, its agents, employees and officials harmless against all claims arising out of APPLICANT, or its subcontractor(s)'s, use of the right of way, including its installation, operation, use, maintenance, repair, removal, or presence of APPLICANT's facilities, structures, equipment or other types of improvements, including Antenna Facilities, in the right of way except to the extent arising from or related to the sole negligence or willful misconduct of CITY, its elected officials, officers, employees, agents, and representatives.
- 5.7.3. Hazardous Materials: Without limiting the scope of 5.7 above, APPLICANT will be solely responsible for and will defend, indemnify, and hold City, its guests, invitees, members, officers, officials, agents, employees, volunteers, representatives and/or subcontractors harmless from and against any and all claims, costs, and liabilities, including reasonable attorney's fees and costs, arising out of or in connection with the cleanup or restoration of the right-of-way associated with the APPLICANT's use of Hazardous Materials. "Hazardous Materials" shall be interpreted broadly and specifically includes, without limitation, asbestos, fuel, batteries or any hazardous substance, waste, or materials as defined in any federal, state, or local environmental or safety law or regulations including, but not limited to, CERCLA.

6. **LIMITATION OF LIABILITY**

CITY shall not be liable to the APPLICANT, or any of its respective agents, representatives, employees for any lost revenue, lost profits, loss of technology, rights or services, incidental, punitive, indirect, special or consequential damages, loss of data, or interruption or loss of use of service, even if advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability or otherwise. City does not waive its tort liability caps as stated in Minn. Stat. §466, as may be amended from time to time.

7. **INTERFERENCE**

7.1. APPLICANT agrees to install equipment of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to any equipment of CITY or other users of the wireless support structure which existed on the wireless support structure prior to the date this Permit is issued. In the event any of APPLICANT's equipment causes such interference, and after CITY has notified APPLICANT in writing of such interference, APPLICANT will take all steps necessary to correct and eliminate the interference, including but not limited to, at CITY's option, having the APPLICANT power down its equipment and later power up its equipment for intermittent testing.

7.2. User Priority. For City-owned support structures, APPLICANT agrees that the following priorities of use, in descending order, shall apply in the event of communication interference while this Permit is in effect:

- (1) City;
- (2) Public safety agencies, including law enforcement, fire, and ambulance services that are not part of the City;
- (3) Other governmental agencies where use is not related to public safety; and
- (4) APPLICANT and other Government-regulated entities whose antennae offer a service to the general public for a fee in a manner similar to a public utility, such as long distance and cellular telephone.

## **8. TERM OF PERMIT**

The term of this permit is from the date the permit is issued by the City to the time the small wireless facility is no longer in use, unless earlier revoked due to a substantial breach of the terms and conditions of statute, ordinance, rule or regulation or any material condition of this permit.

## **9. REMOVAL AT END OF TERM OR UPON PERMIT REVOCATION**

APPLICANT shall, within ninety (90) days after any termination of this Permit, remove its equipment, conduits, fixtures and all personal property and restore the wireless support structure to its original condition, reasonable wear and tear expected. CITY agrees and acknowledges that all of the equipment, conduits, fixtures and personal property of APPLICANT shall remain the personal property of APPLICANT and APPLICANT shall have the right to remove the same at any time during the Term. All poles, conduit and pole boxes are and shall remain property of the CITY. If such time for removal causes APPLICANT to remain on the wireless support structure after termination, APPLICANT shall pay rent at the then existing monthly rate or on the existing monthly pro-rata basis until such time as the removal of the antenna structure, fixtures and all personal property are completed. All rentals paid prior to said termination date shall be retained by CITY.

## **10. ASSIGNMENT**

This Permit, and all rights thereunder, may not be sold, assigned, or transferred without the written consent of the CITY, such consent not to be unreasonably withheld, conditioned or delayed.

## **11. CASUALTY**

In the event of damage or casualty to the wireless support structure that cannot reasonably be expected to be repaired or replaced due to winter frost conditions, or if the structure is damaged so that such damage may reasonably be expected to disrupt APPLICANT's operations for more than 120 days, then APPLICANT may, provided CITY has not completed the restoration or replacement of the structure, terminate the Permit upon fifteen (15) days prior written notice to CITY.