

**TOWN OF MORRISON, COLORADO  
BOARD OF TRUSTEES**

**ORDINANCE NO. 445**

**AN ORDINANCE AMENDING TITLE 10, CHAPTER 1, ARTICLE M OF  
THE MORRISON TOWN CODE TO REGULATE AND ALLOW SMALL  
CELL COMMERCIAL MOBILE RADIO SERVICE (CMRS) FACILITIES  
AND DECLARING AN EMERGENCY**

WHEREAS, the Town of Morrison is a Colorado home rule municipality operating under a Charter approved by the electorate pursuant to Article XX of the Colorado Constitution and governed by its elected Board of Trustees; and

WHEREAS, the Board of Trustees has authority pursuant to the Home Rule Charter and C.R.S. §31-16-101, et seq. to adopt and enforce all ordinances; and

WHEREAS, in the exercise of this authority, the Board of Trustees has previously adopted Title 10, Chapter 1, Article M of the Morrison Town Code concerning wireless telecommunication services;

WHEREAS, the Board of Trustees wishes to amend Title 10, Chapter 1, Article M to address recent changes in state law affecting “small cell” facilities and to make conforming amendments in connection therewith;

WHEREAS, the Board of Trustees wishes to implement these regulations with immediate effect, due to the fact that the recent changes in the state law takes effect on July 1, 2017, and will automatically apply to all permit applications received by the Town on or after July 1, 2017.

**NOW, THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Morrison, Colorado:**

**Section 1. Section 10-1M-1 of Municipal Code amended.** Title 10, Chapter 1, Article M, Section 1 of the Morrison Municipal Code is amended by the addition of the following definitions in the appropriate alphabetical order:

**10-1M-1: DEFINITIONS:**

**“ALTERNATIVE TOWER CMRS FACILITY” MEANS AN EXISTING OR PROPOSED STRUCTURE THAT IS COMPATIBLE WITH THE NATURAL SETTING AND SURROUNDING STRUCTURES AND THAT CAMOUFLAGES OR CONCEALS THE PRESENCE OF THE ANTENNAE AND CAN BE USED TO HOUSE OR MOUNT A CMRS ANTENNA. EXAMPLES INCLUDED MANMADE TREES, CLOCK TOWERS, BELL STEEPLES, LIGHT POLES, SILOS, EXISTING UTILITY POLES, EXISTING UTILITY TRANSMISSION TOWERS AND OTHER SIMILAR ALTERNATIVE DESIGNED STRUCTURES.**

**“MICRO-CELL FACILITY” MEANS A SMALL WIRELESS FACILITY THAT IS NO LARGER IN DIMENSIONS THAN TWENTY-FOUR INCHES IN LENGTH, FIFTEEN INCHES IN WIDTH, AND TWELVE INCHES IN HEIGHT AND THAT HAS AN EXTERIOR ANTENNA, IF ANY, THAT IS NO MORE THAN ELEVEN INCHES IN LENGTH.**

**“SMALL CELL CMRS FACILITY” MEANS EITHER:**

- 1. A PERSONAL WIRELESS SERVICE FACILITY AS DEFINED BY THE FEDERAL TELECOMMUNICATIONS ACT OF 1996, AS AMENDED AS OF AUGUST 6, 2014; OR**
- 2. A WIRELESS SERVICE FACILITY THAT MEETS BOTH OF THE FOLLOWING QUALIFICATIONS:**
  - a. EACH ANTENNA IS LOCATED INSIDE AN ENCLOSURE OF NO MORE THAN THREE CUBIC FEET IN VOLUME OR, IN THE CASE OF AN ANTENNA THAT HAS EXPOSED ELEMENTS, THE ANTENNA AND ALL OF ITS EXPOSED ELEMENTS COULD FIT WITHIN AN IMAGINARY ENCLOSURE OF NO MORE THAN THREE CUBIC FEET; AND**
  - b. PRIMARY EQUIPMENT ENCLOSURES ARE NOT LARGER THAN SEVENTEEN CUBIC FEET IN VOLUME. THE FOLLOWING ASSOCIATED EQUIPMENT MAY BE LOCATED OUTSIDE OF THE PRIMARY EQUIPMENT ENCLOSURE AND, IF SO LOCATED, IS NOT INCLUDED IN THE CALCULATION OF EQUIPMENT VOLUME: ELECTRIC METER, CONCEALMENT, TELECOMMUNICATIONS DEMARCATION BOX, GROUND-BASED ENCLOSURES, BACK-UP POWER SYSTEMS, GROUNDING EQUIPMENT, POWER TRANSFER SWITCH, AND CUT-OFF SWITCH; OR**
- 3. A MICRO-CELL FACILITY, AS DEFINED IN THIS SECTION.**

**“SMALL CELL CMRS NETWORK” MEANS A COLLECTION OF INTERRELATED SMALL CELL FACILITIES DESIGNED TO DELIVER WIRELESS SERVICE.**

**Section 2. Section 10-1M-9 of Municipal Code amended.** Title 10, Chapter 1, Article M, Section 9 of the Morrison Municipal Code is amended by the addition of a footnote following the schedule of zone districts, to read as follows:

**SMALL CELL CMRS FACILITIES, WHEN IN COMPLIANCE WITH SECTION 10-1M-12, ARE PERMITTED USES IN ALL ZONE DISTRICTS, SUBJECT TO ADMINISTRATIVE REVIEW AS DESCRIBED IN SECTION 10-1M-2.**

**Section 3. Addition of Section 10-1M-12 of Municipal Code.** The Morrison Municipal Code is amended by the addition of Title 10, Chapter 1, Article M, Section 12, as follows:

**10-1M-12: STANDARDS FOR SMALL CELL FACILITIES AND NETWORKS:**

- A. APPLICABLE REQUIREMENTS: SMALL CELL FACILITIES AND SMALL CELL NETWORKS, SHALL COMPLY IN ALL RESPECTS WITH THE REQUIREMENTS OF THIS SECTION APPLICABLE TO ALL CMRS FACILITIES, WITH THE FOLLOWING EXCEPTIONS:**
- 1. SETBACK REQUIREMENTS; AND**
  - 2. DESIGN REQUIREMENTS**
- B. LOCATION: SMALL CELL FACILITIES ARE PERMITTED IN TOWN RIGHTS-OF-WAY, UPON FACILITIES IN THESE RIGHTS-OF-WAY AND ON PUBLIC EASEMENTS OWNED BY THE TOWN UNDER THE FOLLOWING PRIORITY:**
- 1. FIRST, ON A TOWN-OWNED UTILITY POLE, IF ANY, WHICH SHALL BE REMOVED AND REPLACED WITH A POLE DESIGNED TO CONTAIN ALL ANTENNAE AND EQUIPMENT WITHIN THE POLE TO CONCEAL ANY GROUND-BASED SUPPORT EQUIPMENT AND OWNERSHIP OF WHICH POLE IS CONVEYED TO THE TOWN.**
  - 2. SECOND, A TOWN-OWNED UTILITY POLE WITH ATTACHMENT OF THE SMALL CALL FACILITIES IN A CONFIGURATION APPROVED BY THE TOWN.**
  - 3. THIRD, ON A THIRD-PARTY OWNED UTILITY POLE, (WITH THE CONSENT OF THE OWNER THEREOF), WITH ATTACHMENT OF THE SMALL CELL FACILITIES IN A CONFIGURATION APPROVED BY THE TOWN.**
  - 4. FOURTH, ON A TRAFFIC SIGNAL POLE OR MAST ARM IN A CONFIGURATION APPROVED BY THE TOWN, OR IN THE CASE OF A CDOT FACILITY, BY CDOT.**
  - 5. FIFTH, ON A FREESTANDING OR GROUND-MOUNTED FACILITY WHICH MEETS THE DEFINITION OF AND REQUIREMENTS FOR AN ALTERNATIVE TOWER STRUCTURE IN A LOCATION AND CONFIGURATION APPROVED BY THE TOWN.**
- C. HEIGHT: ALL SMALL CELL FACILITIES SHALL NOT EXCEED TWO FEET ABOVE THE LIGHT POLE, TRAFFIC SIGNAL OR OTHER FACILITY OR STRUCTURE TO WHICH THEY ARE ATTACHED, OR THE MAXIMUM HEIGHT IN THE RELEVANT ZONE DISTRICT, WHICHEVER IS LESS. WHEN NEW UTILITY POLES ARE PROPOSED AS AN ALTERNATIVE**

**TOWER, THEIR HEIGHT SHALL BE SIMILAR TO EXISTING UTILITY/LIGHT POLES IN THE VICINITY.**

- D. SPACING: NO SMALL CELL FACILITY SHALL BE LOCATED WITHIN ONE THOUSAND FEET (1000 FT) OF ANY OTHER SUCH FACILITY.**
- E. DESIGN: SMALL CELL FACILITIES SHALL BE DESIGNED TO BLEND WITH AND BE CAMOUFLAGED IN RELATION TO THE STRUCTURE UPON WHICH THEY ARE LOCATED (E.G.: PAINTED TO MATCH THE STRUCTURE OR SAME MATERIAL AND COLOR AS ADJACENT UTILITY POLES). TO THE GREATEST DEGREE POSSIBLE, SUPPORT EQUIPMENT SHALL BE LOCATED UNDERGROUND.**
- F. RELOCATION AND REMOVAL: ALL FACILITIES IN TOWN RIGHT-OF-WAY OR EASEMENTS SHALL BE REMOVED AND/OR RELOCATED AT THE APPLICANT'S EXPENSE IN THE EVENT THE TOWN'S USE OF THE RIGHT-OF-WAY OR EASEMENT PRECLUDES THE CONTINUED PRESENCE OF SUCH FACILITIES.**
- G. PERMITTING: ALL SMALL CELL FACILITIES AND NETWORKS SHALL BE REVIEWED PURSUANT TO THE PROCEDURE AT SECTION 10-1M-2. SMALL CELL FACILITIES AND NETWORKS SHALL ALSO MAKE APPLICATION FOR A PERMIT FOR WORK IN THE RIGHT-OF-WAY. THE TOWN MAY ACCEPT APPLICATIONS FOR A SMALL CELL NETWORK, PROVIDED EACH SMALL CELL FACILITY SHALL BE SEPARATELY REVIEWED.**
- H. INDEMNIFICATION: THE OPERATOR OF A SMALL CELL FACILITY WHICH IS PERMITTED TO LOCATE ON A TOWN RIGHT-OF-WAY OR EASEMENT OR ON A TOWN-OWNED UTILITY POLE, TRAFFIC SIGNAL OR OTHER STRUCTURE OWNED BY THE TOWN, OR WITHIN A TOWN-OWNED RIGHT-OF-WAY OR EASEMENT, SHALL, AS A CONDITION OF PERMIT APPROVAL, INDEMNIFY THE TOWN FROM AND AGAINST ALL LIABILITY AND CLAIMS ARISING AS A RESULT OF THAT LOCATION OR ATTACHMENT, INCLUDING REPAIR AND REPLACEMENT OF DAMAGED POLES AND EQUIPMENT, IN A FORM APPROVED BY THE TOWN ATTORNEY.**
- I. BONDING: ALL PERMITS FOR LOCATION OF SMALL CELL FACILITIES ON REAL PROPERTY NOT OWNED BY THE SMALL CELL PERMITTEE SHALL INCLUDE AS A CONDITION OF APPROVAL A BOND, IN FORM APPROVED BY THE TOWN ATTORNEY, TO GUARANTEE PAYMENT FOR ANY DAMAGES TO THE REAL PROPERTY AND REMOVAL OF THE FACILITY UPON ITS ABANDONMENT.**

**J. PERMIT EXPIRATION: A PERMIT FOR A SMALL CELL FACILITY SHALL EXPIRE NINE (9) MONTHS AFTER APPROVAL UNLESS CONSTRUCTION OF THE PERMITTED STRUCTURE HAS BEEN INITIATED.**

**Section 4. Severability, Conflicting Ordinances Repealed.** If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

**Section 5. Emergency Declared; Effective Date.** Pursuant to Section 3.10(a) of the Home Rule Charter, the Board of Trustees hereby declares that an emergency exists requiring immediate effectiveness of this Ordinance in order to comply with and address House Bill 17-1193, concerning small cell facilities, which takes effect on July 1, 2017, and applies to permit applications received on or after July 1, 2017. This ordinance shall take effect immediately upon adoption and publication as provided by Section 3.10 of the Home Rule Charter.

**INTRODUCED, READ, PASSED AND ADOPTED AND ORDERED PUBLISHED IN FULL** this 20<sup>th</sup> day of June, 2017, by a vote of 6 ayes and 0 nays.

TOWN OF MORRISON:

  
Sean K. Forey, Mayor

ATTEST:

  
Lyndsey Davis, Town Clerk

