



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

Rely on us.

TO: Commissioners Mital, Simpson, Helgeson, Manning and Brown
FROM: Mel Damewood, Engineering Manager & Jeannine Parisi, Community and Local Government Outreach Coordinator
DATE: July 27, 2015
SUBJECT: Telecommunications Equipment on EWEB Facilities
OBJECTIVE: Information Only

Issue

A recent article in the *Register Guard* about AT&T's desire to site new cell phone equipment in South Eugene, potentially co-located with EWEB power poles, raised a number of questions about EWEB's policies, standards, and role in the process. This memo is an informational update on the topic of co-location of third-party telecommunications equipment on EWEB poles.

Background

Co-location of telecommunications (telecom) infrastructure on existing utility facilities is a standard practice nationwide. Encouraging co-location on existing cell towers, utility poles and other structures helps minimize visual intrusions of telecom equipment as wireless communications and data transmission needs increase.

Currently EWEB has seven utility pole sites leased to different carriers, all of which represent renewed, rather than new, contracts:

4110 River Rd (est. August 2005) Cell Carrier: Voicestream Wireless	2901-B Ferry St (est. July 1999) Cell Carrier: Sprint PCS Spectrum Wireless
1750 Chamber St (est. November 1999) Cell Carrier: Sprint PCS Spectrum Wireless	1389 N 99 Hwy (est. February 1999) Cell Carrier: Sprint PCS Spectrum Wireless
128 Wilkes Dr (est. May 2008) Cell Carrier: Sprint	2139 Elysium Ave (est. August 2007) Cell Carrier: Sprint
Barger Dr @ Minnesota St (est. June 2010) Cell Carrier: Sprint	

The Federal Telecommunications Act of 1996 obligates municipalities to accommodate telecom facilities in their jurisdictions. While local jurisdictions retain the authority to regulate the location, design and construction of the facilities, they cannot discriminate or create unreasonable barriers to entry. The Act explicitly prohibits local jurisdictions from regulating radio frequency emissions. The City of Eugene and EWEB have developed a separate but coordinated process to evaluate requests for new telecomm facilities in our area, described below.

Discussion

In 1997, the City adopted its telecom ordinance, and after fending off legal challenges from the telecom industry, it became a model for other cities. The ordinance, which regulates facilities on private property, has the following key objectives:

- Encourages new antennae to be co-located on existing towers, utility poles and buildings rather than constructing new towers
- Where new towers are necessary, it encourages them away from residential neighborhoods and in industrial/commercial areas. An independent review by a telecom expert to verify the applicant's technical reports is also required.
- Establishes requirements that minimize visual and noise impacts (e.g. height limitations).

A December 2014 memo to City Council explains that the vast majority of telecom equipment has been co-located on existing structures (approximately 75 out of 90 facilities). However, the City does not formally regulate utilities in the right of way, where utility structures like street light and/or electric poles are located. To supplement the telecom ordinance, City and EWEB staff developed a set of guidelines to provide general parameters for how telecom facilities *may* be allowed in the ROW (see Attachment 1). These guidelines support many of the overarching goals of the ordinance such as neighborhood compatibility.

EWEB has set of operational standards that must be met before a co-location request is considered by the City. These standards were recently updated and err on the side of EWEB operational and safety needs, as well as taking customer impacts into account. Since the update in 2014 no new co-locations requests have been approved. As the property owner, EWEB can suggest alternate co-locations opportunities that may have fewer impacts or decline a site request altogether, even if it meets utility standards and City requirements. However, reasonable justification for denial would be important to document to avoid potential challenges from the telecom industry.

The co-location approval process begins with a utility feasibility analysis. If after review EWEB staff conclude that the request meets our standards, the provider then works with the City to address the parameters in the ROW guidelines. This is an administrative process that is more straightforward and predictable than a typical land use approval request. Even so, representatives from the telecom industry continue to seek fewer restrictions for siting facilities. However, staff from both agencies believe the standards and guidelines strike a reasonable balance between protection of public interests (which include quality cell service) and industry needs.

According to City staff, most telecom requests are for upgrades to existing facilities, rather than for new locations, as technology continues to respond to changing service needs. While new equipment is likely to be more compact, antennae height is still a key requirement to address service gaps with the fewest number of facilities. Some carriers continue to have service gaps and EWEB anticipates additional co-location requests to serve these areas. These will continue to be reviewed on a case-by-case basis against utility standards for safety, functionality and customer impact to determine if

an EWEB facility is the best option for siting the equipment.

TBL Assessment

None at this time.

Recommendation/ Requested Board Action

None, this is for information and discussion only.



Telecommunication Facilities in the Right-of-Way Policy Guidelines

Background

The Eugene Land Use Code (Chapter 9, Ordinance 20078, 1997) provides a comprehensive set of standards regulating telecommunication facilities on private property. One of the cornerstones of Chapter 9 is compliance with the federal Telecommunications Act of 1996 and the retention of locally established land use goals. To that end, the code places a priority on colocation of telecommunication facilities on existing structures as the first option. This includes colocation on existing utility structures. Given that many of these utilities are located in the right-of-way (ROW), the land use code provisions do not apply, as the ROW is unzoned.

Although there are no specific code standards governing the height and appearance of telecommunication features in the public ROW, there are City Council adopted Findings in telecommunications-related land use and ROW ordinances, as well as City Council adopted Telecommunication Vision and Policies. As wireless technologies are expanding, it seems prudent to establish general guidelines for future requests for wireless facility colocations on structures located in the public ROW. The following guidelines are therefore provided to aid City of Eugene (city) Public Works and Planning, EWEB and other ROW facility users in their determinations in response to requests for telecommunication facilities in the ROW.

Purpose of the Guidelines

The following guidelines are intended to provide general parameters under which requests for telecom facilities may be allowed within the public ROW. The primary objective of these guidelines is to provide telecom providers with a better sense of what the City, EWEB, and other ROW facility users will accept related to telecom facilities in the ROW.

It's important to emphasize that these guidelines do not obligate the city, EWEB or other ROW facility users to accept request even if all these guidelines are met. Likewise, these guidelines are not intended as strict code requirements. In the review of specific requests, if a particular proposal achieves the overarching goal of minimizing impact to surrounding properties by but does not meet every guideline, EWEB, the City and other ROW facility users have the discretion to issue approval.

General Guideline

1. Colocation of telecom facilities should be limited to ROWs involving public streets. Alleys and public utility easements will be strongly discouraged, unless it can be shown that such locations pose minimal visual impact to surrounding properties.
2. The telecom facility must be located on an existing pole or other utility structure. No additional poles or structures may be added in the ROW for the sole purpose of accommodating the telecom facility.
3. The existing pole or structure may be replaced by a similar pole or structure provided it complies with the other guidelines listed below.

4. Any replacement pole or structure should be placed in a similar location unless relocation reduces visual impact to nearby properties.
5. The facility shall not interfere with the functional needs of the existing utilities on the existing pole in the ROW. EWEB and the City may require specific design stipulations to avoid such impact. Safe, functional use of the ROW shall be maintained.
6. Standalone city street lights should only be considered if all other locations prove unusable.
7. The cost of any replacement pole or structure (including installation and maintenance) shall be the responsibility of the telecom provider, unless otherwise stipulated by the City, EWEB and other ROW facility users.
8. The provider shall be required to execute a pole use contract.
9. The provider must be registered under Telecom Ordinance 20083.

Design Guidelines

The following guidelines attempt to follow similar standards imposed for telecom facilities on private property. Since these standards are based on zoning districts, these guidelines follow a similar approach based on the zoning adjacent to the ROW in question.

The following height limits shall apply to proposed telecom facilities, based on the zoning district that is immediately abutting the ROW in question:

HEIGHT

Category 1: Includes the following zoning districts: AG, C-1, C-4, GO, PRO, PL, R-1, R-2, R-3, R-4, S (Special Area Zones, except Walnut Station).

Height Limit: Up to 18' above the height of an existing pole or structure to a maximum of 75' above grade. Replacement poles can be increased in height up to 18' to accommodate the telecom facility. Antenna shall not extend out more than 2' horizontally from the pole or structure. The color of the antenna should blend in with the existing structure/surroundings.

Equipment Cabinets: Cabinets cannot exceed elevation view standards within the ROW and must meet maximum size, clearance setbacks and number maximums as defined by administrative order (See R-7.302-D). Equipment located on private property is subject to zoning requirements. If located in the ROW, the telecom provider shall demonstrate that noise levels will not exceed 45 dba, measured from abutting property line. Exceptions reviewed on a case by case basis. The city may require the applicant to pay for a third party review by an acoustical expert to confirm compliance.

Category 2: Includes the following districts: C-2, C-3

Height Limit: Replacement poles can be increased up to 90' in total height above grade. Antenna shall not extend out more than 2' horizontally from the pole or structure. The color of the antenna should blend in with the existing structure/surroundings.

Equipment Cabinets: Cabinets cannot exceed elevation view standards within the ROW and must meet maximum size, clearance setbacks and number maximums as defined by administrative order (See R-7.302-D). Equipment located on private property is subject to zoning requirements. Exceptions reviewed on a case by case basis. The City may require the applicant to pay for a third party review by an acoustical expert to confirm compliance.

Category 3: Includes the following zoning districts: I-1, I-2, I-3

Height Limit: None.

Equipment Cabinets: Reviewed on a case by case basis for inclusion in the ROW.

LOCATION

In order to minimize impact to nearby residences, the following locational factors shall be considered:

- If the proposed facility is a Category 2 site and located within 50' of a residential zone (R-1, R-2, R-3, R-4), then the Category 1 height limits shall apply.
- Preference shall be given to poles or structures that are not in close proximity to residences. For example, poles immediately adjacent to a front yard and within full view of a single family residence shall be discouraged.
- ROW's along arterial and collector streets shall generally be encouraged over smaller local streets.
- Poles or structure locations that are partially (or fully) screened by other structures or landscaping shall be given priority.

REVIEW PROCESS

Requests for telecom facilities in the ROW shall be forwarded to the following agencies (at a minimum) for review and comment:

- EWEB – Jaime Breckenridge, Utility Joint Use Coordinator
Phone: (541) 685-7388 Email: Jaime.Breckenridge@eweb.org
- City of Eugene Public Works – Brian Siria, Utility Coordinator/Inspector
Phone: (541) 682-4887 Email: Brian.t.siria@ci.eugene.or.us
- City of Eugene Planning – Gabe Flock, Senior Planner
Phone: (541) 682-5697 Email: Gabriel.flock@ci.eugene.or.us
- City of Eugene – Pam Berrian, Telecommunications and Cable Program Manager
Phone: (541) 682-5590 Email: Pam.c.berrian@ci.eugene.or.us

Key steps and responsibilities include the following:

1. The ROW pole (or other utility) owner should be the first to review the request for general feasibility.

2. Additional city staff (listed above) should be notified of request if the utility owner determines the colocation is feasible.
3. Assuming the various agencies/departments are supportive of a given request, city Planning staff will assess whether the request is consistent with the overall ROW guidelines (namely, whether the visual impact of the facility is acceptable). Planning staff will attempt to identify those requests which clearly don't comply with the guidelines as early in the process as possible, to avoid unnecessary review by others.
4. If ancillary equipment is proposed in ROW, Public Works Maintenance shall determine if it is consistent with elevation view standards to include exceptions. Planning staff will aid in review of any noise study.

Updated Monday, September
29, 2014 added
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