



Wireless Telecommunication Facilities in Public 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.
 - A. Exception to 6. Would be for pole use for small cell installations.
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 and must receive an approved construction work permit prior to equipment install.
9. The provider must be registered under Telecom Ordinance 20083.
10. Unless the lessee is seeking a ROW use fee waiver (7% of applicable Eugene gross revenues under Eugene Ordinance 20083), they must complete a ROW long term use License (formerly called a franchise) prior to submitting a Permit Application or other application for a City permit to work within City rights-of-way, and before this Agreement is executed.
 - A. If the provider plans to request ROW use fee waiver under Ord 20083, they must inform PW during the Permit process and the placement of transmission equipment must comply with Section 3.401 (5) of Eugene Code: (5) So long as it registers with the city as required by section 3.405 and pays the annual registration fee required by section 3.415(1) as well as other applicable fees, an operator is not required to obtain a license under this section or pay an annual license fee under section 3.415(2) if the operators only use of the public right-of-way is to place wireless transmitting or receiving facilities above the ground on existing poles or similar structures in the right-of-way and the operator does not install or use lines, wires or cables.

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: If the provider is seeking a ROW use fee waiver under Ord20083 (see General guideline 10 above), it cannot place transmission equipment or cabinets in, on, or under the public ROW.

However, if the provider plans to install ROW on or under-ground equipment or cabinets understanding they will be assessed the 7% ROW use fee under Ord 20083 (1997) and must apply for a long term ROW use License, the 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: If the provider is seeking a ROW use fee waiver under Ord20083 (see General guideline 10 above), it cannot place transmission equipment or cabinets in, on, or under the public ROW.

However, if the provider plans to install ROW on or under-ground equipment or cabinets understanding they will be assessed the 7% ROW use fee under Ord 20083 (1997) and must apply for a long term ROW use License, the 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: nick.r.gioello@ci.eugene.or.us viewed 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 200' 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 – Nick Goello, Associate Planner
Phone: (541) 682-5453 Email: nick.r.gioello@ci.eugene.or.us
- City of Eugene – Pam Berrian, Ordinance 20083 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 the provider is seeking a ROW use fee waiver under Ord20083 (see General guideline 10 above), it cannot place transmission equipment or cabinets in, on, or under the public ROW.

However, if the provider plans to install ROW on or under-ground equipment or cabinets understanding they will be assessed the 7% ROW use fee under Ord 20083 (1997) and applies for the long term ROW use License, 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.

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