



# City of Culver City

Mike Balkman  
Council Chambers  
9770 Culver Blvd.  
Culver City, CA 90232  
(310) 253-5851

## Staff Report

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**CC - (1) Adoption of a Resolution Amending the Design and Development Standards for Installation of Wireless Facilities in the Public Rights-of-Way Related to their Preferred Placement Pursuant to Culver City Municipal Code Section 11.20.065.E.4, and Finding such Amendments to be Exempt from the California Environmental Quality Act (CEQA); and (2) Adoption of a Resolution Amending the Standard Conditions of Approval for Wireless Encroachment Permits Related to Insurance Policy Coverage Requirements for Installation of Wireless Facilities in the Public Rights-of-Way Pursuant to Culver City Municipal Code Section 11.20.065.H.1, and Finding such Amendments to be Exempt from CEQA.**

**Meeting Date:** February 28, 2022

**Contact Person/Dept:** Joe Susca/Public Works-Administration  
**Phone Number:** 310-253-5636

**Fiscal Impact:** Yes ☐ No ☒

**General Fund:** Yes ☐ No ☒

**Public Hearing:** ☐ **Action Item:** ☒ **Attachments:** ☒

**Commission Action Required:** Yes ☐ No ☒ **Date:**

**Public Notification:** (E-Mail) Meetings and Agendas - City Council (02/23/2022); AT&T (02/14/2022), Verizon Wireless (02/14/2022), Crown Castle (02/14/2022); members of the public who pulled speaker cards on this topic during the 12/10/2018, 01/14/2019, and 08/26/2019 City Council meetings (02/14/2022).

**Department Approval:** Yanni Demitri, Director of Public Works/City Engineer (02/14/2022)

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### **RECOMMENDATION**

Staff recommends the City Council (1) adopt a Resolution (Attachment 1) amending the *Design and Development Standards for Wireless Facilities in the Public Rights-of-Way*, to add placement preferences pursuant to Culver City Municipal Code (CCMC) Section 11.20.065.E.4 *General Standards for Wireless Facilities in the Public Rights-of-Way* (PROW), and finding such amendments to be exempt from the California Environmental Quality Act (CEQA); and (2) adopt a Resolution (Attachment 2) amending the *Standard Conditions of Approval* to modify the City's insurance policy coverage requirements for the issuance of encroachment permits for wireless facilities pursuant to CCMC Section 11.20.065.H.1 *Conditions of Approval*, and finding such amendments to be exempt from CEQA.

## **BACKGROUND**

### **Wireless Telecommunications Networks**

Previously, wireless telecommunications antennas and network equipment were primarily installed on large, high-powered towers located on private property and on the rooftops of buildings that served devices within a 25-mile range. Demand for wireless services, however, has substantially increased, and with it the number of wireless devices connected to the Internet, which has increased from one million in 1992 to fifty billion today. Accompanying the increase in wireless devices is the demand for ubiquitous and reliable high-speed Internet connections.

### **Small Cell Wireless Facilities**

To supplement existing high-powered cell macro towers, wireless carrier networks now add low-powered small cell sites to supplement their existing macro towers' ability to support their customers' needs in small coverage areas.

Wireless carriers are considered "telephone corporations" under section 7901 of the California Public Utilities Code, permitting them to install equipment within the PROW. Under sections 7901 and 7901.1, however, cities maintain the ability to reasonably control the time, place, and manner in which wireless facilities are installed and also the authority to regulate the aesthetics of wireless facilities installed in the PROW.

The typical small cell equipment site ("wireless facility") is comprised of one or more antennas and radios and related equipment connected to a fiber optic cable backhaul and a power source. Some small cell sites include electric meters, and/or contain batteries to operate the equipment in the event of a power outage. With the exception of antennas, which must be located aboveground, all of the other components of a wireless facility may be housed within an underground vault, on the ground, or attached to a pole.

On December 10, 2018, the City Council adopted Resolution No. 2018-R109, establishing standard Conditions of Approval for encroachment permits issued to install wireless facilities in the PROW (the "Conditions of Approval").

On January 14, 2019, the City Council adopted Ordinance No. 2019-001 amending CCMC Section 11.20.025 to allow applications for placement of telecommunication facilities in the PROW to be administratively reviewed and approved by the Director of Public Works/City Engineer.

On August 26, 2019, the City Council adopted Resolution No. 2019-R066, establishing *Design and Development Standards for Wireless Facilities in the Public Rights-of-Way* (the "Design Standards").

## **DISCUSSION**

Since adoption of the Conditions of Approval and the Design Standards, staff has received applications to install wireless facilities and, per the City's application requirements, the applicant submits justification for the proposed installation, a map and narrative description of all of the

applicant's existing wireless facilities in the City, a site plan and analyses related to their visual impact, noise, and structural specifications. In addition, applicants also submit a Radio Frequency (RF) emissions report demonstrating that the radio emissions of their proposed wireless facility are within acceptable ranges established by the FCC along with offering a minimum of two alternative locations for their placement. The applicant also mails a letter notifying everyone within 500 feet and posts notices on poles in the immediate vicinity announcing their intention to install a wireless facility in the neighborhood. When objections are raised as a result of the notices, staff takes the lead to work with the residents and the applicant to resolve such objections.

Recently, some residents have requested amendments designed to enhance the City's insurance policy coverage requirements and to create a new section in the Design Standards enacting placement preferences. Staff prepared a redline of changes based on input received from other cities suggested as good examples to emulate by the residents. A redline of the proposed changes were subsequently sent with an invitation to review them to those residents and the wireless industry. In addition to reviewing these two documents, as invited, some residents also offered changes to other sections of CCMC 11.20.065 (*Wireless Facilities in PROW*). However, upon review it was determined that the proposed changes to CCMC 11.20.065 were either duplicative, exceeded the City's authority or was contrary to FCC or CPUC regulations. In some cases, the desired CCMC changes would have the effect of prohibiting a wireless carrier's ability to place their facilities in certain areas they are entitled to use and, if enacted, would likely result in a legal challenge by the wireless industry.

The Municipal Fiber Network Ad Hoc Subcommittee, comprised of Mayor Daniel Lee and Councilmember Göran Eriksson, met with staff to review all of the feedback and requests received from the residents and the wireless industry and, together, final drafts of proposed amendments were made to the Conditions of Approval and the Design Standards. These proposed amendments are brought to the City Council for consideration. Below is a summary of those changes.

#### Amendments to the City's Design Standards:

Resolution No. 2019-R066, adopted on August 26, 2019, established the City's existing Design Standards, which are focused on aesthetics (reducing their visual blight), a desire to underground wireless facilities whenever feasible and use of integrated streetlights that support collocation. The proposed Resolution modifies the existing Design Standards to add placement preferences, which are summarized below:

- In regard to zoning:  
Wireless facilities in the PROW shall be installed in the following order or preference, listed from the most preferred zone to the least preferred zone or location:
  - i) Non-residential zones, e.g., Industrial, commercial;
  - ii) Residential zones, including mixed-use commercial zones that permit residential uses.
- In regard to roadway type:  
Within any particular zone, wireless facilities in the PROW shall be installed on the various roadway types, listed from the most preferred roadway type to the least

preferred roadway type:

- i) Primary arterials;
  - ii) Secondary arterials;
  - iii) Neighborhood feeder roads;
  - iv) Collector roads;
  - v) Local streets
- In regard to placement within roadways:  
Within any particular roadway, wireless facilities shall be installed in the following order of preference, listed from most to least preferred location:
    - i) At intersections provided it is not directly in front of a window;
    - ii) As close as feasible to shared property lines between two adjacent lots;
    - iii) At other locations not directly in front of the windows of residences, businesses or occupiable buildings;
    - iv) At other locations
  - In any residential zoning district, no wireless facilities shall be located in the “front yard” or “back yard” meaning locations directly in front of the front side or the back side of residential buildings. Placements shall be as close as feasible to shared property lines between two adjacent lots.
  - Wireless facilities shall not be placed within 600 feet of i) a public or private school that minors attend, ii) a public playground, iii) a public park, and iv) a licensed childcare facility.
  - Wireless facilities shall not be placed at locations that obstruct scenic views.
  - No wireless facility may encroach onto or over any private or other property outside the PROW without the property owner’s express written consent.

To review all of the proposed changes, see Attachment 1 (*Resolution Amending Design and Development Standards for Wireless Facilities in the Public Rights-of-Way*) and Attachment 3 (*Redline of Proposed Amendments to Design and Development Standards for Wireless Facilities in the Public Rights-of-Way*).

If an applicant can show that complying with any of the Design Standards would be technically infeasible, the Director of Public Works/City Engineer may waive or modify specific Design Standards on a case-by-case basis.

#### Amendments to the City’s Conditions of Approval:

The proposed amendments to the City’s Conditions of Approval are related to minimum insurance policy coverage requirements and are as follows:

The policy or policies must include the following coverage:

- a. Bodily Injury and Property Damage;
  - b. Personal Injury/Advertising Injury;
  - c. Premises/Operations Liability;
  - d. Products/Completed Operations Liability;
  - e. Bodily Injury or Damage resulting from radio frequency exposure at levels exceeding the Federal Communications Commission limits;
  - f. Contractual Liability with respect to the involved permit;
  - g. Broad Form Property Damage; and,
  - h. Independent Consultants or Independent Contractors coverage.
- The policy or policies must not exclude or delete coverage for Explosion, Collapse, Underground (“UCX”) or cross liability claims or suits by one insured against another.
  - The policy or policies shall contain no endorsements or provisions limiting coverage for contractual liability or products/completed operations liability or any exclusion contrary to the conditions of the involved City permit(s).
  - The aggregate limits of any general liability policy must apply separately to each project or location.
  - If Permittee’s general liability policy or policies don’t comply with any of the requirements contained above, Permittee shall acquire additional policies necessary to comply with all of these requirements.

The City’s Risk Manager establishes and adjusts the claims amount from time to time, which is currently \$5 million per occurrence and in the aggregate for wireless carriers. The insurance carrier selected must be A.M. Best rated at a minimum of A-:VIII or better (see Attachment 2 - *Resolution Amending Standard Conditions of Approval for Wireless Facility Permits*).

City staff is requesting the City Council adopt two Resolutions, one to modify the existing Conditions of Approval related to insurance policy coverage requirements and the other to modify the Design Standards to add placement preferences with the understanding that, pursuant to CCMC Section 11.20.065.D.1, the Director of Public Works/City Engineer may administratively modify the Design Standards from time to time in response to rapidly changing advancements in integrated streetlight designs and small cell technologies. When those proposed modifications to the Design Standards constitute a material change to the Design Standards, staff would present to City Council for review and approval as needed.

### Environmental Review

The proposed amendments to the City’s Design Standards and the City’s Conditions of Approval are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the adoption of the Design Standards and Conditions of Approval will have a significant effect on the environment. The adoption of the Design Standards and the Conditions of Approval, by itself, does not result in any direct physical changes in the environment, as it only establishes standards and other conditions that

may be applied to a subsequent project. Once an application is filed, that application will be subject to further environmental review. It is likely, however, that any applicable wireless facility installation would also be exempt from CEQA in accordance with State CEQA Guidelines Sections 15302 (replacement or reconstruction), 15303 (new construction or conversion of small structures), and/or 15304 (minor alterations to land).

## **FISCAL ANALYSIS**

Adopting the proposed Resolutions does not have a financial impact.

## **ATTACHMENTS**

1. 2022\_02\_28 ATT 1 Resolution Amending *Design and Development Standards for Wireless Facilities in the Public Rights-of-Way*
2. 2022\_02\_28 ATT 2 Resolution Amending *Standard Conditions of Approval for wireless facility permits.*
3. 2022\_02\_28 ATT 3 Redline of Proposed Amendments to *Design and Development Standards for Wireless Facilities in the Public Rights-of-Way*

## **MOTION**

That the City Council:

1. Adopt a Resolution modifying the *Design and Development Standards for Wireless Facilities in the Public Rights-of-Way* pursuant to CCMC Section 11.20.065.E.4, and finding such amendments to be exempt from CEQA; and
2. Adopt a Resolution modifying the Conditions of Approval for encroachment permits issued for the installation of small cell equipment in the public rights-of-way related to insurance coverage requirements pursuant to CCMC Section 11.20.065.H.1, and finding such amendments to be exempt from CEQA; and
3. Direct the Public Works Director/City Engineer to file respective Notices of Exemption, accordingly.