

RESOLUTION NO. 3149

A RESOLUTION ADOPTING REVISIONS TO THE CITY OF BEND STANDARDS AND SPECIFICATIONS

Findings:

- A. The City has concluded that amendments to the City of Bend Standards and Specifications are necessary to provide design guidance for the installation of Small Wireless Facilities within the City's Right-of-Way.
- B. On September 26, 2018 the Federal Communication Commission (FCC) issued a Declaratory Ruling and Order (*Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79, WC Docket NO. 17-84, Declatory ruling and Third report and order September 26, 2018*) regarding the permitting and installation of Small Wireless Facilities in public rights-of-way.
- C. The amendment to the Bend Standards and Specifications will help provide consistency and design guidance to the Small Wireless Facility Franchise Utilities as they deploy their facilities and infrastructure in the City's Rights-of-Way.
- D. These amendments to the Bend Standards and Specifications will help the City comply with the above-mentioned FCC ruling.

THE CITY COUNCIL OF THE CITY OF BEND RESOLVES AS FOLLOWS:

1. The City of Bend Standards and Specifications are amended by adopting an amended Section 8 Franchised Utilities attached as Exhibit A.
2. The resolution takes effect on April 3, 2019.

Adopted by the Bend City Council on March 20, 2019.

YES: Sally Russell, Mayor NO: none
Bruce Abernethy
Barb Campbell
Bill Moseley
Justin Livingston
Gena Goodman-Campbell



Sally Russell, Mayor

ATTEST:

Robyn Christie, City Recorder

Approved as to form:



Mary Winters, City Attorney

Franchised Utilities

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8. Franchised Utilities

8.1 Franchised Utilities in Public Rights-of-Way

Utility companies that have a current franchise agreement with the City may construct facilities in City of Bend public Rights-of-Way (ROW) or public easements controlled by the City in strict conformance with the City of Bend Standards and Specifications and the requirements of the Franchise Agreement. Prior to starting any construction, franchised utility companies shall obtain a City Rights-of-Way permit in an existing roadway or easement. Utility companies and their designers and agents shall cooperate with the City of Bend to allow for inspection of utilities and the street restoration during construction. The intent of this requirement is to protect the interests of all utilities within City rights of way.

8.2 New Construction and Conduit Banks

When a private, underground utility is not completely installed by the time of road subgrade construction, appropriate utilities conduits (dry line) shall be placed in all areas to be paved to allow future completion of the utility. Conduit termini shall extend beyond the edge of pavement or curb a minimum of five-feet. For wired utilities (cable, phone, electric, etc.), the ends of the conduit shall be sealed and marked in accordance with the requirements of the affected utility.

Private water utilities shall construct a dry line in an area to be improved with the line extending beyond the edge of pavement or curb a minimum of five-feet. Any valves or thrust restraint for design conditions shall also be installed at the time the dry line is constructed.

All installations of private utilities shall be subject to the inspection of the affected utility and shall be acceptable to both the affected utility and the City of Bend.

8.3 Shared Trenches

Private underground utilities shall not be located within 10-feet horizontally of any parallel water or sewer main line and shall be separated a minimum of one-foot vertically. This requirement does not strictly apply to sewer service lines extending to individual properties.

All private utility crossings of public water or sewer mains shall be perpendicular to the roadway travel path.

Utilities may share the sewer service trench in Rights-of-Way areas in accordance with franchise utility agreements for shared trenches.

8.4 Trenching and Patching in Paved Rights-of-Way Areas

Trench excavation and backfill for underground utilities shall conform to City standard drawings R-10, R-11 and Oregon Department of Transportation (ODOT) specification section 00405. Trench patching shall conform to City Standard drawing R-10 and ODOT Specifications.

8.5 Small Wireless Facilities

Small Wireless Facility installations shall conform to the City of Bend Standards and Specifications, as well as the current version of additional references as specified and/or amended in the various subsections below. Small Wireless Facilities additional references include, but are not limited to:

- City of Bend Development Code and Ordinances of the City of Bend;
- ORS 757.270 to 757.290;
- Oregon Joint Use;
- OPUC regulations;
- NESC;
- Applicable Building Codes;
- Adopted joint use and co-locating requirements of all approved franchisees within the City of Bend; and,
- All other referenced documents cited herein.

8.5.1 Deviation from Small Wireless Facility Standards

The City of Bend provides for Small Wireless Facility installation designs that are flexible and reflective of their context while meeting current safety and operational standards. There may be times when compliance with the City of Bend Standards and Specifications is not desired or possible and the City's design standard deviation process shall be followed to receive approval from the City Engineer. The City Engineer may delegate review authority.

This standard deviation process shall not be used to override a requirement of a land use decision once finalized. The Bend Development Code has provisions for requesting modification to land use requirements. Except as provided elsewhere, in other City codes, resolutions, and land use actions; written requests for deviations from these Small Wireless Facilities design standards shall be reviewed and may be granted by the City Engineer according to the criteria outlined in Part I Section 2 of this document.

8.5.2 Co-Location

The City of Bend prefers all Small Wireless Facilities be co-located per BDC Title 3.7. If the facilities cannot be co-located and a Franchisee wishes to install its facilities in the ROW, the Franchisee shall use the *City and County of Denver – Small Cell Infrastructure Guidelines (April 2018)* Chapters 1, Chapter 4, Chapter 5, Appendix A and Appendix B. All attachments to existing or new utility poles will be permitted through the

approved Joint Use process of the utility pole owner. Attachments to City owned street luminaires shall comply with Chapter 3. Attachment to City of Bend Traffic Signal arms and structures is prohibited unless otherwise approved by the City Engineer and ODOT.

All references in the *City and County of Denver – Small Cell Infrastructure Design Guidelines* to “Xcel Energy” will mean the applicable utility pole owner, i.e. Pacific Corp or Central Electric COOP or other owner. All references to “City” and “County of Denver” will mean the “City of Bend.” All inconsistencies, conflicting standards, and final interpretations of this or any additional references is at the discretion/ professional judgement of the City Engineer.

8.5.3 Location Guidelines

The following are guidelines for siting individual Small Wireless Facilities.

- Every effort should be made to install equipment in vaults underground or concealed as provided by the referenced design guidelines above.
- Power connections to free standing facilities shall be buried underground in vaults unless otherwise approved.
- All supporting equipment and connections to telecom facilities shall be installed in vaults underground, unless adequately shielded per the design guidelines or as approved otherwise.
- New facilities linked together via fiber optics or other telecommunications infrastructure (other than wireless) will need to be designed as an Infrastructure/Tier Three ROW permit and shall be installed underground (connecting cables and power) unless they are co-located on existing power and telecom facilities.
- Free standing facilities shall comply with Type 4 design specifications in Chapter 4 of the above referenced guidelines and shall be installed in all residential and business corridors as identified by the City during permitting.
- An applicant wishing to attach to existing City of Bend facilities i.e., street luminaires, shall demonstrate that the pole(s) are appropriately sized, and have significant strength to support the additional equipment. Applicant shall provide an engineering analysis of the structure by an engineer professionally registered in the State of Oregon.
- Refer to sections 3.4, 4.5, and 5.5 of the *City and County of Denver – Small Cell Infrastructure Guidelines (April 2018)* for additional placement requirements as applicable.
- The City will review ROW permits concurrently with Joint Use applications for co-location requests with the applicable utility. Approval of all permits is conditional on approval of the Joint Use application from the franchise utility.
- See Standard Drawing R-2 for clear vision requirements.

- The location of all co-located facilities shall be provided to the City in the form of an as-built drawing per Part II – Chapter 2.6 of these standards. All installations in the City's ROW shall be permitted per section 3.40 of the Bend Code.

8.5.4 Franchise Fees, License Fees and Permit Fees

Small Wireless Franchise Utilities shall pay all applicable franchise fees, license fees and permit fees in an amount established by the Fee Resolution or applicable Franchise Ordinance or Franchise Agreement, subject to any limit imposed by federal law. Utilities that do not have franchises shall pay the Utility License Fee plus applicable permit fees as outlined in the City's Fee Resolution, subject to any limit imposed by federal law.