



STAFF REPORT

SAUSALITO CITY COUNCIL

AGENDA TITLE:

Guidelines for the Placement of Surface Mounted Utility Facilities in the Public Right of Way.

RECOMMENDED ACTION:

Adopt a motion approving Guidelines.

SUMMARY

The Sausalito Municipal Code includes regulations requiring permits and conformance to standard conditions to perform work in and to operate facilities in the public right-of-way. Current standards are silent with regard to the placement and appearance of surface mounted utility facilities.

The utility company, AT&T, submitted an encroachment permit application to locate surface mounted facilities within the Public Right of Way. AT&T is in the process of expanding their digital services. This effort has been called "Project Light Speed." AT&T is doing this project county wide and in other parts of the Bay Area, the State and the nation. The apparent goal is to compete with Cable and Satellite communication services (television, internet and telephone).

Guidelines have been prepared to provide a tool for utility companies and the City to assure safe and effective placement of utility equipment. The Guidelines were adapted from Guidelines adopted by the City of Fairfax. The Legislative Committee discussed these guidelines and support Council adoption.

Staff seeks City Council approval of the Guidelines.

BACKGROUND

Section 17 of the Sausalito Municipal Code (Streets, Sidewalks and Public Places) includes regulations requiring permits and conformance to standard conditions to perform work and to operate facilities in the public right-of-way. Facilities 6 feet in height or greater require City Council approval of permit. Facilities less than 6 feet can be approved by the Public Works Director when the proposal conforms to Standard Conditions. The Public Works Department-Engineering Division operates the Encroachment Permit Program to enforce these regulations.

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Current Standard Conditions are called "Uniform Construction Standards" approved and adopted by Cities and County of Marin, June 1979. The Standards are silent on the matter of surface mounted utility facilities. The equipment, itself, is governed by Public Utility Commission regulations, Electrical Code Requirements and various rules and guidelines of OSHA (Occupational Safety and Health Administration).

AT&T submitted encroachment permit applications to locate surface mounted facilities within the Public Right of Way. This equipment is part of AT&T's network expansion to enable digital services. These services will enable AT&T to provide Television services including High Definition Television, pay-per-view, as well as telephone services including higher speed internet services. AT&T is doing this county wide and in other parts of the Bay Area, the State and the nation. The apparent goal is to compete with Cable and Satellite communication services.

Guidelines have been prepared to provide a tool for utility companies and the City to assure safe and effective placement of utility equipment. The Guidelines were adapted from Guidelines adopted by the City of Fairfax.

The Legislative Committee discussed these guidelines and support Council adoption.

Staff seeks City Council approval of the Guidelines.

FISCAL IMPACT

Approval and adoption of the guidelines will have no impact on the General Fund.

STAFF RECOMMENDATIONS

Adopt the attached Guidelines.

Alternatively, provide staff direction on revisions to the Guidelines for consideration on a future date.

Alternatively, refer the interim guidelines to the Underground Committee for further revisions.

ATTACHMENTS:

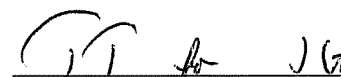
Resolution
Draft Guidelines

PREPARED BY:

REVIEWED BY (Department Head):



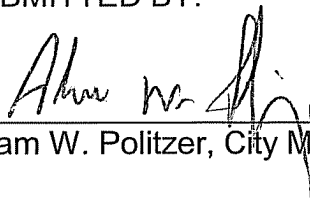
Todd Teachout, City Engineer



Jonathon Goldman, Director of Public Works

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SUBMITTED BY:



Adam W. Politzer, City Manager

REVIEWED BY (City Attorney):



Mary Wagner, City Attorney

RESOLUTION ___-09

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAUSALITO
APPROVING GUIDELINES FOR THE PLACEMENT OF SURFACE MOUNTED
UTILITY FACILITY FACILITIES IN THE PUBLIC RIGHT-OF-WAY**

WHEREAS, the City of Sausalito adopted several ordinances regulating construction within the Public right-of-way, codified within Title 17 of the Sausalito Municipal Code, and

WHEREAS, the Code and referenced standards lack regulation for the placement of surface mounted utility facilities, and

WHEREAS, Utility Companies have submitted proposals to place surface mounted utility facilities, and

WHEREAS, the City of Sausalito desires to regulate the placement and appearance of these facilities by preparing guidelines to assist Utilities and City staff in assuring safe and effective facilities, and

WHEREAS, the title of the guidelines is "Guidelines for the Placement of Surface Mounted Utility Facilities in the Public Right-of-Way."

NOW, THEREFORE, the City Council of the City of Sausalito hereby resolves as follows:

Adopts "**Guidelines for the Placement of Surface Mounted Utility Facilities in the Public Right-of-Way**" as policy for issuing permits for placement of Surface Mounted Utility Facilities.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Sausalito on the ____ day of ____, 2009, by the following vote:

AYES: Councilmembers:
NOES: Councilmembers:
ABSTAIN: Councilmembers:

Mayor, City of Sausalito

ATTEST:

City Clerk

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GUIDELINES FOR THE PLACEMENT OF SURFACE-MOUNTED UTILITY FACILITIES IN THE PUBLIC RIGHT OF WAY

Statement of Purpose

Under Public Utilities Code § 7901, surface-mounted facilities proposed by telephone corporations “along and upon any public road or highway” must be constructed “in such manner and at such points as not to incommode the public use of the road or highway.” Pursuant to Public Utilities Code § 7901.1, the City of Sausalito (“City”) may “exercise reasonable control as to the time, place, and manner in which roads [and] highways ... are accessed.”

The City adopts these guidelines pursuant to the Public Utilities Code in order to establish uniform standards and procedures for persons or entities seeking permits to install surface-mounted facilities in the local public rights-of-way.

1. Definitions

For the purposes of these guidelines, the following terms, phrases, words, and abbreviations, when capitalized, will have the following meanings:

A. “Applicable Law” means all applicable federal, state, and local laws, ordinances, codes, rules, regulations, and orders, as the same may be amended or adopted from time to time. Where applicable, Applicable Law also means the requirements contained in any franchise, license, encroachment permit, or other permit for the use of the Public Rights-of-Way.

B. “Applicant” means any person or entity filing an application for a Permit to install a Surface-Mounted Facility in the Public Rights-Of-Way.

C. “Permit” means an encroachment permit, a permit to perform an excavation, or any other permit or authorization to install a Surface-Mounted Facility in the Public Rights-of-Way.

D. “Public Rights-of-Way” means the area in, upon, above, beneath, within, along, across, under, and over the public sidewalks or streets, within the geographical jurisdiction of the City.

E. “Surface-Mounted Facility” means any physical element, structure or other improvement that is installed, attached, or affixed in the Public Rights-of-Way on a site that is above the surface of the street, except a utility pole or associated appurtenances.

2. Guidelines for Locating Surface-Mounted Facilities

A. In order to determine an appropriate location for the Surface-Mounted Facility, the Applicant shall complete each of the following steps as part of the permit application process:

1. Prepare and submit to the City, or have on file with the City, information describing all Surface-Mounted Facilities that the Applicant reasonably anticipates installing in the Public Rights-of-Way in the next 24 months. An Applicant shall advise the City of any additional Surface-Mounted Facilities that it anticipates installing after filing the Permit application.
2. Provide information to City showing all of the sizes and shapes of the cabinets proposed to be used for its Surface-Mounted Facilities.
3. Where the City may lawfully require undergrounding, attempt to place the Surface-Mounted Facility (or parts thereof) underground or demonstrate that it is not technologically or economically feasible to place the facility underground by, at a minimum, showing that Applicant conducted a thorough search for viable underground technology.
4. Discuss with the City any special requirements for the Surface-Mounted Facility that limit the location for the Surface-Mounted Facility (i.e., line of sight requirements) to a specific site and as a result preclude consideration of alternative locations.
5. Review with the City reasonable opportunities to co-locate the Surface-Mounted Facility with any other nearby Surface-Mounted Facility installed or to be installed in the Public Rights-of-Way by the Applicant or another entity, including government departments and other entities providing utility services.
6. Review with the City opportunities, if any, for removing any existing Surface-Mounted Facility(ies) from the Public Rights-of-Way that are no longer needed as a result of the Applicant's installation of a new Surface-Mounted Facility.
7. Provide written notice to property owners and tenants within 500 feet of the proposed site, which notice contains a drawing or picture of the proposed Surface-Mounted Facility and a description of expected impacts of its installation and ongoing maintenance, including but not limited to expected construction time, maintenance/replacement intervals and ambient noise. The notice should be drafted collaboratively with the City staff after the consultation described in Section 2 B below, and sent not later than 10 days after filing the Application to allow interested owners and tenants to provide comment to Applicant and the City on the Applicant's plans.

B. Applicant shall meet with City Department of Public Works staff prior to filing its application to discuss the proposed locations of Surface-Mounted Facilities. The City may determine that a site visit is necessary to assess proposed locations for the Surface-Mounted Facility. In selecting a location for a Surface-Mounted Facility in the Public Rights-of-Way, an Applicant shall minimize the impact that the placement will have on the Public Rights-of-Way by, among other things:

1. Placing the Surface-Mounted Facility in the Public Rights-of-Way so that the path of pedestrians will not be obstructed, paying particular attention to the needs of persons with disabilities. To the extent possible, the Applicant shall locate the Surface-Mounted Facilities on streets where pedestrian travel is minimal. Strict compliance with the federal Americans with Disabilities Act and all state disabled access laws will be required.

2. Seeking to avoid obstructing access to other facilities that are installed or, to the knowledge of the City, planned to be installed, in the Public Rights-of-Way (whether above or below ground) by other entities including government agencies and entities providing utility services.

3. Complying with the following guidelines for determining acceptable locations for Surface-Mounted Facilities in the Public Rights-of-Way:

a. Surface-Mounted Facilities shall be no larger than is reasonably necessary to contain and protect the required equipment.

b. Surface-Mounted Facilities shall not obstruct pedestrians. A minimum of four feet (4') of pedestrian clearance (free of all obstacles for a clear path of travel, unobstructed pedestrian walkway) shall be maintained at all times.

c. Surface-Mounted Facilities shall not intrude on pedestrian clear zones at street corners.

d. Surface-Mounted Facilities shall be set back a minimum of five feet (5') from edge of crosswalk areas.

e. Surface-Mounted Facilities shall be set back a minimum of eighteen inches (18") from the face of the curb.

f. Surface-Mounted Facilities shall be set back a minimum of eight feet (8') from any fire escape and/or fire exit.

g. Surface-Mounted Facilities shall be set back a minimum of five feet (5') from any fire hydrant, driveway, curb ramp, or blue zone parking space.

h. Surface-Mounted Facilities shall not be placed over any storm drain or other utility facility.

i. Surface-Mounted Facilities shall not produce excessive noise that would distract drivers or disturb the public in using the Public Rights-of-Way, violate City noise standards, constitute a nuisance or illegally interfere with the

quiet enjoyment of residences within 500 feet or beyond. Noise determinations, if required, shall be made in an analysis area with an approximate radius of 500 feet centered at the location of the proposed facility.

j. Surface-Mounted Facilities shall not emit excessive heat that could burn a passerby or disturb or annoy the public in using the Public Rights-of-Way, or violate the City's fire-prevention standards.

k. Surface-Mounted Facilities shall not obstruct the view of any traffic sign, way finding sign, traffic signal or any other existing facility nor obstruct the sight lines at any street/alley intersections or driveways.

l. The City discourages the placement of Surface-Mounted Facilities on the property of, or adjacent to, a designated local, State or National Historic Landmark, unless they are co-located with an existing transit shelter, kiosk, or other street furniture, provided that the size and footprint of the existing facility is not unreasonably increased by the addition of the Surface-Mounted Facility. For the purposes of this paragraph, the word adjacent shall mean on the same side of the street and in front of the subject building or in front of the next building on either side.

m. The City discourages the placement of Surface-Mounted Facilities in front of the boundaries of a park, recreation area, or open space frequented by pedestrians or bicyclists, unless they are co-located with an existing transit shelter, kiosk, or other street furniture, provided that the size and footprint of the existing facility is not unreasonably increased by the addition of the Surface-Mounted Facility. City Public Works staff shall provide notification to the City Council at the earliest possible scheduled regular City Council Meeting meeting or formally approved (by resolution) designee after receiving an application that contemplates placement of any Surface-Mounted Facilities in front of the boundaries of a park, recreation area, or open space frequented by pedestrians or bicyclists.

n. Surface-Mounted Facilities shall be painted to match the color used for utility structures in the vicinity where reasonably feasible unless otherwise specified by the City. The City may require that structures have a graffiti-proof coating where feasible. Any graffiti must be removed promptly by the Applicant.

o. In conjunction with an application for a permit to install a Surface-Mounted Facility, the Agency may reasonably determine it necessary to require screening of any such improvements in the public right-of-way from public view by means of installation or renovation of plantings, additional street tree plantings, and other treatments. Where the Agency reasonably requires, the Applicant will revise its site plan showing acceptable plantings. In addition, the Agency may

require the Applicant to agree to replant any plantings that do not survive for a period of six months after installation, to ensure that they are properly established; thereafter, planting maintenance shall be responsibility of the owners of the properties immediately adjacent to the parkway/right-of-way where the plantings are installed.

p. Surface-Mounted Facilities should not cause the removal of or damage to any publicly owned or maintained tree or planting.

C. The City may grant exceptions to these Guidelines on a case by case basis where strict enforcement would not further the objectives or interests of the City.

D. The issuance of permits shall be subject to all Applicable Law, including but not limited to the California Environmental Quality Act (CEQA). The applicant shall submit documents evidencing CEQA review concurrent with application.

3. Appeals

Appeals of decisions by the Director of Public Works or formally approved designee shall be in accordance with Chapter 17.08 of the City Code by written application to the City Clerk within ten (10) days of the date the denial was issued by the Director. The City Council shall conduct a public hearing on the appeal.