

# Agenda Report

**TO:** CITY COUNCIL

**DATE:** MAY 18, 2009

**FROM:** CITY ATTORNEY

**SUBJECT:** ADOPTION OF RESOLUTIONS (1) REPEALING RESOLUTION NO. 7542, WHICH ESTABLISHED A STANDARD LICENSE AGREEMENT FOR WIRELESS TELECOMMUNICATIONS ANTENNA FACILITIES; AND (2) AMENDING DESIGN GUIDELINES FOR THE PLACEMENT OF WIRELESS TELECOMMUNICATIONS ANTENNA FACILITIES WITHIN THE CITY

## **RECOMMENDATION**

Recommendation of City Attorney:

- (1) Adopt a resolution repealing a 1997 resolution establishing a standard form license agreement for wireless telecommunications facilities along the public right-of-way and on City-owned property, consistent with the Council's direction at its February 23, 2009 meeting; and
- (2) Adopt a resolution amending the design guidelines for the placement of wireless telecommunications antenna facilities, consistent with the Council's direction at its February 23, 2009 meeting.

## **BACKGROUND**

At its February 23, 2009 meeting, the Council directed the City Attorney to return with a comprehensive ordinance regulating telecommunications facilities. First reading on the ordinance was conducted on April 27, 2009, and second reading will be conducted tonight. At the February 23 meeting, the Council also directed the City Attorney to return with a resolution repealing the standard form license agreement for wireless facilities (Resolution No. 7542) and a resolution amending design guidelines pertaining to wireless facilities on property within the City (Resolution No. 7559). These resolutions are presented to the Council for action tonight, contemporaneously with the second reading of the ordinance.

The resolution repealing the standard form license agreement for wireless facilities in the public right-of-way and on City-owned property is necessary because the terms and conditions from the City's standard form license agreement have been incorporated into the code as conditions of approval for a permit located in proposed PMC §§ 12.22.180 and 17.50.310(D)(13). This proposed resolution eliminates potentially duplicative staff time in processing both (1) a land use permit; and (2) a license agreement -- as the terms and conditions of the license agreement would be subsumed in the land use permit for the wireless facilities. However, the City is still protected to the same extent as it would be with a separate license agreement.

The resolution amending the design guidelines pertaining to wireless facilities on property within the City is necessary because the design guidelines have historically been used by the Planning & Development Department for property outside the public right-of-way, which is regulated by the Zoning Code. The design guidelines have been amended to remove a reference to "multiple-use facilities," which means shared uses of wireless facilities with street lights, utility poles, traffic signals, or signs in the public right-of-way. This is the only amendment to the existing resolution on design guidelines, which were adopted in 1997. For facilities within the public right-of-way, the ordinance (proposed PMC § 12.22.110) already contains a separate set of design guidelines.

### **FISCAL IMPACT**

The resolution repealing the standard form license agreement may result in a cost savings by eliminating potentially duplicative staff time in processing both (1) a land use permit; and (2) a license agreement. Otherwise, the proposed resolutions will not have a major fiscal impact.

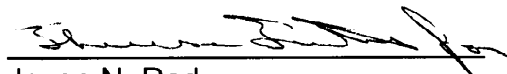
**ENVIRONMENTAL DETERMINATION**

On February 23, 2009, the Council acknowledged the conclusions of the Initial Study and adopted a Negative Declaration for the project.

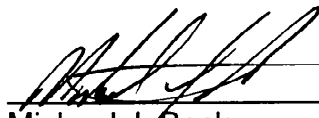
Respectfully submitted,

  
Michele Beal Bagneris  
City Attorney

Prepared by:

  
Javan N. Rad  
Deputy City Attorney

Concurred by:

  
Michael J. Beck  
City Manager

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASADENA AMENDING  
DESIGN GUIDELINES FOR THE PLACEMENT OF WIRELESS  
TELECOMMUNICATIONS ANTENNA FACILITIES WITHIN THE CITY

The City Council of the City of Pasadena finds, determines, and resolves as follows:

Section 1. The City Council adopts the design guidelines for the placement of wireless telecommunications antenna facilities on property within the boundaries of the City in the form and manner as attached in Exhibit "A" hereto.

Section 2. Where authorized by the Municipal Code, the design guidelines referenced above may be applied by staff, boards, commissions, and/or the City Council.

Section 3. Resolution No. 7559, A Resolution of the City Council of the City of Pasadena Adopting Design Guidelines for the Placement of Wireless Telecommunications Antenna Facilities on Property Within the City and Authorizing the Planning Director, or the Design Commission, as Applicable, to Apply These Guidelines in Conducting Design Review, is hereby repealed.

Adopted at the \_\_\_\_\_ meeting of the City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2009 by the following vote:

AYES:


NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Mark Jomsky, CMC, City Clerk

Approved as to form:

  
\_\_\_\_\_  
Javan N. Rad  
Deputy City Attorney

## EXHIBIT "A"

### DESIGN GUIDELINES FOR THE PLACEMENT OF WIRELESS TELECOMMUNICATIONS ANTENNA FACILITIES WITHIN THE CITY

#### **I. Design Requirements for Support Structures.**

1. Support structures shall be designed to harmonize with their surroundings (e.g., sky, landscape elements, adjacent buildings, ) as viewed from pedestrian level.
2. Support structures shall be finished in a non-reflective clear or anodized metallic finish and/or a painted finish in a color that recedes against the surrounding area.
3. The use of specialty designs (e.g., simulated trees) to camouflage the appearance of support structures is encouraged.
4. Support facilities, such as equipment rooms, cabinets and cellular switching devices, shall be designed to be compatible with the architecture of adjacent buildings. Support facilities housed outside of buildings shall be screened from public view by walls, fences, trellises, landscaping, and similar treatments.

#### **II. Design Guidelines for Building-Mounted Facilities.**

1. The screening of antenna arrays, in accordance with Section 17.50.310 of the Zoning Code, is encouraged to shield the antenna array from public view. Where such screening is not possible, antennas should be painted or otherwise treated to recede against background features (e.g., buildings, landscaping, sky), if visible from the public rights-of-way (excluding freeways).
2. Where feasible, the antenna array should be integrated into the building design, such as by aligning an individual antenna with columns and piers. In addition, the use of additional architectural features, compatible with the design of the building, is encouraged to camouflage the antenna array.
3. When mounted on buildings, wireless telecommunications antenna facilities shall be compatible with the architectural features of the building to which they are attached. This compatibility may be achieved by the addition of new architectural features, consistent with the design of the building, to camouflage the antenna array.
4. The location of support facilities in interior spaces is encouraged. Where no such space exists, support facilities shall be designed to be compatible with the architecture of the building upon which they are located.
5. When placed on buildings of historic significance or within historic districts, wireless telecommunications antenna facilities should be screened where feasible.

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASADENA REPEALING  
RESOLUTION NO. 7542, WHICH ESTABLISHED A STANDARD LICENSE  
AGREEMENT FOR WIRELESS TELECOMMUNICATIONS ANTENNA FACILITIES

WHEREAS, on or about September 22, 1997, the City Council adopted Resolution No. 7542, A Resolution of the City Council of the City of Pasadena Approving the Format of a Standard "License Agreement for Wireless Telecommunications Antenna Facilities" and Authorizing the City Manager, or the City Manager's Designee, to Use and to Sign this Standard Form of License Agreement in Consummating Transactions with Wireless Telecommunications Service Providers That Involve the Use of City-Owned Real Property ("Resolution No. 7542"); and

WHEREAS, the City Council has adopted an ordinance merging the applicable terms of the standard license agreement in Resolution No. 7542 into Title 12 and Title 17 of the Municipal Code.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Pasadena as follows:

Section 1. Resolution No. 7542 is hereby repealed.

Adopted at the \_\_\_\_\_ meeting of the City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2009 by the following vote:

AYES:

NOES:


ABSENT:

ABSTAIN:

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Mark Jomsky, CMC, City Clerk

Approved as to form:



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Javan N. Rad  
Deputy City Attorney