


REQUEST FOR RESOLUTION FOR TIER III ENCROACHMENT PERMIT

TO: Caroline Martin, City Attorney's Office

FROM: Matt Bryner, P.E. 
Director, Right of Way Services

ROW NO.: 2021-ENCROACHMENT-0000022

DATE: March 11, 2021

SUBJECT: Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to New Cingular Wireless PCS, LLC d/b/a AT&T Wireless, their successors and assigns, to encroach into the right-of-way with one (1) type 4 cellular antenna pole at 4507 North Havana Street.

It is requested that the above subject item be placed on the next available Mayor Council Agenda.

This office has investigated the request from Black & Veatch dated June 15, 2020, on behalf of New Cingular Wireless PCS, LLC d/b/a AT&T Wireless for the granting of the above-subject permit.

This matter has been checked by this office and has been coordinated with Asset Management; Colorado Department of Transportation; Comcast Corporation; Division of Disability Rights; Councilperson Christopher Herndon, District 8; Community Planning and Development: Building & Construction Services, Planning Services, and Zoning & Development Review; Denver Water Board; Environmental Services; Fire Department; Metro Wastewater Reclamation District; Office of Emergency Management; Office of Telecommunications; Parks and Recreation; DOTI: City Engineer, DES Construction Engineering, DES Engineering, DES Survey, IPP Infrastructure Engineering, and Street Maintenance; CenturyLink Corporation; Regional Transportation District; and Xcel Energy, all of whom have indicated no objection for the proposed encroachment.

As a result of the investigations, it has been determined that there is no objection to the granting of the revocable permit.

Therefore, you are requested to initiate Council action for the granting of a revocable permit, subject to certain terms and conditions, to New Cingular Wireless PCS, LLC d/b/a AT&T Wireless, their successors and assigns, to encroach with one (1) type 4 cellular antenna pole into 4507 North Havana Street.

INSERT LOCATION DESCRIPTION ROW 2021-ENCROACHMENT-0000022-001 HERE**STANDARD PROVISIONS**

Section 2. The revocable permit ("Permit") granted by this resolution is expressly granted upon and subject to each and all of the following terms and conditions:

City and County of Denver Department of Transportation & Infrastructure
Right-of-Way Services / Engineering & Regulatory
201 W Colfax Ave, Dept 507 | Denver, CO 80202
www.denvergov.org/doti
Phone: 720-865-3003

- (a) Permittee shall obtain a street occupancy permit from DOTI Permit Operations at 2000 West 3rd Avenue, 303.446.3759, and prior to commencing construction.
- (b) Permittee shall be responsible for obtaining all other permits and shall pay all costs that are necessary for installation and construction of items permitted herein.
- (c) If the Permittee intends to install any underground facilities in or near a public road, street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification Association of Owners and Operators of Underground Facilities by contacting the Utility Notification Center of Colorado, 16361 Table Mountain Pkwy, Golden, Colorado, 80403 at 303.232.1991. Further, Permittee shall contact the Utility Notification Center, at 811 to locate underground facilities prior to commencing any work under this permit.
- (d) Permittee is fully responsible for any and all damages incurred to facilities of the Water Department and/or drainage facilities for water and sewage of the City and County of Denver due to activities authorized by the permit. Should the relocation or replacement of any drainage facilities for water and sewage of the City and County of Denver become necessary as determined by the Manager of DOTI, in the Manager's sole and absolute discretion, Permittee shall pay all cost and expense of the portion of the sewer affected by the permitted structure. The extent of the affected portion to be replaced and relocated by Permittee shall be determined by the Manager of DOTI. Any and all replacement or repair of facilities of the Water Department and/or drainage facilities for water and sewage of the City and County of Denver attributed to the Permittee shall be made by the Water Department and/or the City and County of Denver at the sole expense of the Permittee. In the event Permittee's facilities are damaged or destroyed due to the Water Department's or the City and County of Denver's repair, replacement and/or operation of its facilities, repairs will be made by Permittee at its sole expense. Permittee agrees to defend, indemnify and save the City harmless and to repair or pay for the repair of any and all damages to said sanitary sewer, or those damages resulting from the failure of the sewer to properly function as a result of the permitted structure.
- (e) Permittee shall comply with all requirements of affected utility companies and pay for all costs of removal, relocation, replacement or rearrangement of utility company facilities. Existing telephone facilities shall not be utilized, obstructed or disturbed.
- (f) All construction in, under, on or over the Encroachment Area shall be accomplished in accordance with the Building Code of the City and County of Denver. Plans and Specifications governing the construction of the Encroachments shall be approved by the Manager of DOTI and the Director of the Building Inspection Division prior to construction. Upon completion, a reproducible copy of the exact location and dimensions of the Encroachments shall be filed with the Manager of DOTI.

City and County of Denver Department of Transportation & Infrastructure
Right-of-Way Services / Engineering & Regulatory
201 W Colfax Ave, Dept 507 | Denver, CO 80202
www.denvergov.org/doti
Phone: 720-865-3003

- (g) The sidewalk and street/alley over the Encroachment Area shall be capable of withstanding an HS-20 loading in accordance with the latest AASHTO Specifications. The installations within the Encroachment Area shall be constructed so that the paved section of the street/alley can be widened without requiring additional structural modifications. The sidewalk shall be constructed so that it can be removed and replaced without affecting structures within the Encroachment Area.
- (h) Permittee shall pay all costs of construction and maintenance of the Encroachment. Upon revocation of the permit or upon abandonment, Permittee shall pay all costs of removing the Encroachment from the Encroachment Area, and return the Encroachment Area to its original condition under the supervision of the City Engineer.
- (i) Permittee shall remove and replace any and all street/alley paving, sidewalks, and curb and gutter, both inside the Encroachment Area and in the rights-of-way adjacent thereto, that become broken, damaged or unsightly during the course of construction. In the future, Permittee shall also remove, replace or repair any street/alley paving, sidewalks, and curb and gutter that become broken or damaged when, in the opinion of the City Engineer, the damage has been caused by the activity of the Permittee within the Encroachment Area. All repair work shall be accomplished without cost to the City and under the supervision of the City Engineer.
- (j) The City reserves the right to make an inspection of the Encroachments contained within the Encroachment Area. An annual fee, subject to change, of \$200.00 shall be assessed.
- (k) This revocable permit shall not operate or be construed to abridge, limit or restrict the City and County of Denver in exercising its right to make full use of the Encroachment Area and adjacent rights-of-way as public thoroughfares nor shall it operate to restrict the utility companies in exercising their rights to construct, remove, operate and maintain their facilities within the Encroachment Area and adjacent rights-of-way.
- (l) During the existence of the Encroachments and this permit, Permittee, its successors and assigns, at its expense, and without cost to the City and County of Denver, shall procure and maintain a single limit comprehensive general liability insurance policy with a limit of not less than \$500,000.00. All coverage's are to be arranged on an occurrence basis and include coverage for those hazards normally identified as X.C.U. during construction. The insurance coverage required herein constitutes a minimum requirement and such enumeration shall in no way be deemed to limit or lessen the liability of the Permittee, its successors or assigns, under the terms of this permit. All insurance coverage required herein shall be written in a form and by a company or companies approved by the Risk Manager of the City and County of Denver and authorized to do business in the State of Colorado. A certified copy of all such insurance

City and County of Denver Department of Transportation & Infrastructure

Right-of-Way Services / Engineering & Regulatory
201 W Colfax Ave, Dept 507 | Denver, CO 80202

www.denvergov.org/dotj

Phone: 720-865-3003

policies shall be filed with the Manager of DOTI, and each such policy shall contain a statement therein or endorsement thereon that it will not be canceled or materially changed without written notice, by registered mail, to the Manager of DOTI at least thirty (30) days prior to the effective date of the cancellation or material change. All such insurance policies shall be specifically endorsed to include all liability assumed by the Permittee hereunder and shall name the City and County of Denver as an additional insured.

- (m) Permittee shall comply with the provisions of Article IV (Prohibition of Discrimination in Employment, Housing and Commercial Space, Public Accommodations, Educational Institutions and Health and Welfare Services) of Chapter 28 (Human Rights) of the Revised Municipal Code of the City and County of Denver. The failure to comply with any such provision shall be a proper basis for revocation of this permit.
- (n) The right to revoke this permit is expressly reserved to the City and County of Denver.
- (o) Permittee shall agree to indemnify and always save the City and County of Denver harmless from all costs, claims or damages arising, either directly or indirectly, out of the rights and privileges granted by this permit.

SPECIAL CONDITIONS FOR THIS PERMIT

- (p) None

Section 3. That the Permit hereby granted shall be revocable at any time that the Council of the City and County of Denver shall determine that the public convenience and necessity or the public health, safety or general welfare require such revocation, and the right to revoke the same is hereby expressly reserved to the City; provided however, at a reasonable time prior to City Council action upon such revocation or proposed revocation, opportunity shall be afforded to Permittee, its successors and assigns, to be present at a hearing to be conducted by the City Council upon such matters and thereat to present its views and opinions thereof and to present for consideration action or actions alternative to the revocation of such Permit.

Section 4. This Permit is replacing the encroachment permit granted pursuant to [Resolution No. 20180295] (the "Original Permit"). The Original Permit is being revoked pursuant to [council bill number or resolution number] concurrent with the granting of this Permit. All sub-encroachment permits, such as Tier II encroachment permits, tied to and issued under the authority of the Original Permit will now be tied to and considered issued under the authority of this Permit.

City and County of Denver Department of Transportation & Infrastructure
Right-of-Way Services / Engineering & Regulatory
201 W Colfax Ave, Dept 507 | Denver, CO 80202
www.denvergov.org/doti
Phone: 720-865-3003

A map of the area is attached hereto.

MB: je

cc: Asset Management, Steve Wirth City Council Office, Zach Rothmier Councilperson and Aides Department of Law, Bradley Beck Department of Law, Deanne Durfee Department of Law, Maureen McGuire Department of Law, Martin Plate Department of Law, Caroline Martin DOTI, Alba Castro DOTI, Jason Gallardo Project File	Property Owner: Nathan Wisner New Cingular Wireless PCS, LLC d/b/a AT&T Wireless 161 Inverness Drive West, 2 nd Floor Englewood, CO 80112
---	---

ORDINANCE/RESOLUTION REQUEST

Please email requests to Jason Gallardo
at Jason.Gallardo@denvergov.org by **12:00pm on Monday**. Contact her with questions.

Date of Request: **March 11, 2021**

Please mark one: Bill Request or Resolution Request

1. Type of Request:

- Contract/Grant Agreement Intergovernmental Agreement (IGA) Rezoning/Text Amendment
 Dedication/Vacation Appropriation/Supplemental DRMC Change
 Other: Tier III Encroachment

2. Title: (Start with *approves, amends, dedicates*, etc., include name of company or contractor and indicate the type of request: grant acceptance, contract execution, contract amendment, municipal code change, supplemental request, etc.)

Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to New Cingular Wireless PCS, LLC d/b/a AT&T Wireless, their successors and assigns, to encroach into the right-of-way with one (1) type 4 cellular antenna pole at 4507 North Havana Street.

3. Requesting Agency: Department of Transportation & Infrastructure, Engineering & Regulatory

4. Contact Person:

Contact person with knowledge of proposed ordinance/resolution	Contact person to present item at Mayor-Council and Council
Name: Jessica Eusebio	Name: Jason Gallardo
Email: Jessica.Eusebio@denvergov.org	Email: Jason.Gallardo@denvergov.org

5. General description or background of proposed request. Attach executive summary if more space needed:

Request for a Resolution granting a revocable permit, subject to certain terms and conditions, to New Cingular Wireless PCS, LLC d/b/a AT&T Wireless, their successors and assigns, to encroach into the right-of-way with one (1) type 4 cellular antenna pole at 4507 North Havana Street.

6. City Attorney assigned to this request (if applicable): Martin Plate

7. City Council District: District 8, Christopher Herndon

8. ****For all contracts, fill out and submit accompanying Key Contract Terms worksheet****

Key Contract Terms

To be completed by Mayor's Legislative Team:

Resolution/Bill Number: _____

Date Entered: _____

Type of Contract: (e.g. Professional Services > \$500K; IGA/Grant Agreement, Sale or Lease of Real Property):

Vendor/Contractor Name:

Contract control number:

Location:

Is this a new contract? Yes No Is this an Amendment? Yes No If yes, how many? _____

Contract Term/Duration (for amended contracts, include existing term dates and amended dates):

Contract Amount (indicate existing amount, amended amount and new contract total):

<i>Current Contract Amount (A)</i>	<i>Additional Funds (B)</i>	<i>Total Contract Amount (A+B)</i>
<i>Current Contract Term</i>	<i>Added Time</i>	<i>New Ending Date</i>

Scope of work:

Was this contractor selected by competitive process?

If not, why not?

Has this contractor provided these services to the City before? Yes No

Source of funds:

Is this contract subject to: W/MBE DBE SBE XO101 ACDBE N/A

WBE/MBE/DBE commitments (construction, design, Airport concession contracts):

Who are the subcontractors to this contract?

To be completed by Mayor's Legislative Team:

Resolution/Bill Number: _____

Date Entered: _____



TIER III ENCROACHMENT EXECUTIVE SUMMARY

What is an Encroachment: A privately owned improvement that is located in, or project over or under the public Right-of-Way.

Project Title: 2021-ENCROACHMENT-0000022, Tier III AT&T Black & Veatch, 4507 N. Havana St.

Business name: New Cingular Wireless PCS, LLC d/b/a AT&T Wireless

Description of Encroachment: Proposing to install one (1) small cell pole and associated facilities at 4507 N. Havana St.

The proposed wireless structure lying within the City and County of Denver Right of Way, consists of a 49 sq. ft. disturbance. The center of said disturbance is positioned 119' north of the north west intersection of E 45th Ave and N Havana St.

Explanation of why the Public Right of Way must be utilized for a private improvement: To meet the growing demand for wireless technology in Denver while minimizing the community impact, New Cingular Wireless PCS, LLC D.B.A. AT&T is proposing to stall a monopole with AT&T wireless technology attached. The use of the Right-of-Way is required to address capacity needs, meet the coverage requirements, and limit obstructions with surrounding structures.

Duration of the Encroachment: Permanent

Annual Fees: \$200.00 per year.

Additional Information: New Cingular Wireless PCS, LLC d/b/a AT&T Wireless currently has a Tier III Encroachment, 2017-ENCROACHMENT-0000068, Resolution No. 20180295 Series of 2018, for a small cell pole and associated facilities located at 1465 Wewatta Street. This pole and associated facilities were never constructed and are not able to be constructed at that location. They are now requesting a new Tier III Encroachment permit and Resolution to be able to construct one (1) small cell pole and associated facilities at 4507 N. Havana St. The intent is that the new Tier III Permit and Resolution will replace the current permit and Resolution.

City and County of Denver Department of Transportation & Infrastructure
Right-of-Way Services / Engineering & Regulatory
201 W Colfax Ave, Dept 507 | Denver, CO 80202
www.denvergov.org/dotj
Phone: 720-865-3003

TIER III ENCROACHMENT EXECUTIVE SUMMARY

What is an Encroachment: A privately owned improvement that is located in, or project over or under the public Right-of-Way.

Location Map:



City and County of Denver Department of Transportation & Infrastructure
Right-of-Way Services / Engineering & Regulatory
201 W Colfax Ave, Dept 507 | Denver, CO 80202
www.denvergov.org/dot
Phone: 720-865-3003