

POLICY TITLE TRENCHING IN CITY RIGHTS OF WAY; PAVEMENT LIFE SPAN PRESERVATION

POLICY STATEMENT:

1. It is the policy of the City of Santa Cruz to streamline and simplify the process of installing and upgrading subsurface telecommunications and public utilities infrastructure throughout the City, and to encourage improvement and the undergrounding of existing utilities and modernization of all such infrastructure.
2. It is the responsibility of the City to protect and control access to public rights-of-way, to minimize the inconvenience to members of the public occasioned by construction work in public rights-of-way, and to preserve, to the maximum extent possible, the life span of all public rights-of-way components including pavement and roadway substructure. To this end, it is in the best interest of the City and its residents to minimize the incidence of trenching in public rights-of-way which, of necessity, entails inconvenience to members of the public and, as documented by studies concerning the condition, improvement and preservation of urban streets, significantly reduces the life span of street pavement and substructure.
3. The City has a duty to ensure that all telecommunication and public utility service providers, and their contractors, working within and utilizing City property, facilities or rights-of-way comply with all applicable state and local health, safety and other laws including, but not limited to, all OSHA regulations governing the excavation of trenches in public rights-of-way and construction work within those trenches.
4. In the context of telecommunications, it is the policy of the City to promote widespread access to the most technologically advanced telecommunications services for all City residents and businesses in a nondiscriminatory manner and without regard to socioeconomic status. The City recognizes that access to modern telecommunications infrastructure is vital for communication, education and economic development. It is therefore the policy and objective of the City to foster a fair and level playing field for all telecommunication market competitors that does not advantage one service provider or technology over another. It is consistent with these City goals, policies and objectives to encourage investment in telecommunications infrastructure so as to help close the digital divide between socioeconomic groups and City neighborhoods that have full access to modern high speed internet service and those in the City who do not enjoy that access or have only restricted access.
5. It is the policy of the City to assess fees sufficient to recover the actual costs of providing City services necessary to facilitate the installation of modern public utility and telecommunications subsurface infrastructure but to do so in a manner so as not to discourage the installation of improved and necessary infrastructure.

6. In adopting this policy, it is the intent of the City to comply with all applicable governing state and federal statutory, regulatory and administrative authority pertaining to public utilities and telecommunications and, to this end, this policy shall be interpreted and applied so as to comply with all said authorities.

POLICY IMPLEMENTATION:

- A. DEFINITIONS: For purposes of this policy, the following definitions shall apply:
 1. “Telecommunications” refers to data, voice, video or to other information provided by wire, fiber optic cable or other technology.
 2. “Facilities” and “Infrastructure” refer to wires, cables, conduit, switches, poles, transmission equipment, pipes, pipelines, or other equipment for use in transmitting or processing telecommunications or public utility services or for providing support or connection to such equipment.
 3. “Public right-of-way” or “right of way” refer to the area across, along, beneath, in, on, over, under, upon and within the dedicated public alleys, boulevards, courts, lanes, roads, sidewalks, spaces, streets, and ways within the City, as they now exist or hereafter will exist, and which are or will be under the permitting jurisdiction of the Public Works Department or the Department of Planning and Community Development.
 4. “Service Provider” refers to any person, company, corporation or other entity, including the City, whose facility or facilities in the public right-of-way are used to provide electricity, gas, information services, sewer, drains, telecommunications, traffic controls, transit service, video, water, or other services to the City or to service providers’ customers, regardless of whether such service provider is deemed a public utility by the California Public Utilities Commission.
 5. “Excavation” refers to any work in the surface or subsurface of the public right-of-way, including, but not limited to drilling, digging or boring into, or otherwise opening, the right-of-way, for the purpose of installing, servicing, repairing or modifying any facility(ies) in or under the surface or subsurface of the right-of-way, and restoring the surface and subsurface of the right-of-way.
 6. “Conduit” refers to a tube, duct or other device or structure designed for enclosing telecommunications or electrical wires, fibers, or cables.
 7. “Reconstruction” refers to any project which repairs or replaces fifty percent or more of an existing road, street block, highway or rail line.
 8. “Public Utility” refers to electricity, gas, water, sewer, storm drain, information, video, traffic control or transit service delivered to customers of service providers, to

the City or to City residents or businesses by a service provider whether or not such service provider is deemed a public utility by the California Public Utilities Commission.

B. TELECOMMUNICATIONS AND PUBLIC UTILITY INFRASTRUCTURE INSTALLATION AND IMPROVEMENT

In recognition of the need to provide City residents and businesses with the infrastructure required to meet their telecommunications and public utility needs, and in further recognition of the need to minimize public inconvenience and the need, to the maximum extent possible, to preserve and extend the life span of City streets, all construction, reconstruction or repaving of a City right-of-way will include provisions for the installation of public utility infrastructure and telecommunications cable, conduit and other related facilities wherever practical and feasible. Whenever feasible, public utility and telecommunications infrastructure shall be installed in or adjacent to City rights-of-way in conformance with current City standards. City staff will work with contractors to identify the most cost-effective construction/installation approach consistent with City requirements. If a project includes excavation in or adjacent to a public right-of-way, installation of or upgrades to public utility facilities, telecommunications cable, conduit or other infrastructure will be included in the project as needed. All such installations shall conform to size, shape, location and other specifications as determined by the Director of Public Works.

To the extent feasible, the Department of Public Works or Water Department will notify, or require the applicant service provider to notify, all known service providers of an impending excavation and afford all said service providers the opportunity to utilize said excavation to install, co-locate, upgrade, repair or improve their facilities or infrastructure during that excavation project. Any such notice should be provided at least thirty (30) days prior to the commencement of construction. To the extent feasible, any such excavation shall be sized sufficiently to accommodate any such additional and simultaneous subsurface construction. All service providers so using any such excavation shall be responsible for their proportionate share of the excavation costs and for all costs associated with the permitting, installation of, or other construction connected to, their facilities and infrastructure. In addition, in order to most efficiently and quickly achieve telecommunication infrastructure build-out throughout the City, the City shall encourage and, when feasible, incentivize telecommunication service providers to size their conduits so as to accommodate multiple cables and/or fibers and to lease said excess conduit capacity to other telecommunication service providers at a reasonable lease price.

C. CONDITIONS OF APPROVAL

1. Any construction project entailing excavation in the public right-of-way shall include, in addition to any other conditions deemed appropriate by the Director of Public Works or the Water Department Director, the following conditions:

- a) No new or temporary utility pole shall be set for aerial fiber installations (this prohibition shall not be interpreted as a restriction on PG&E's authority to install new or temporary poles for electricity distribution in its public utility rights-of-way);
 - b) New guy anchor locations shall be shown on a separate plan;
 - c) All trenches and street openings shall comply with City standard trenching details;
 - d) All impacted concrete sidewalks shall be replaced from joint to joint or to the nearest competent sidewalk panel;
 - e) At the City's discretion, full lane slurry with striping shall be required after final paving of the street;
 - f) At the City's discretion, video proof of sewer and storm drain integrity after bore and jack and/or horizontal directional drilling operation shall be submitted;
 - g) A street opening permit shall be required for each excavation location;
 - h) A temporary encroachment permit shall be required for each aerial line installation;
 - i) An encroachment permit shall be required and will be charged based on staff time spent at \$147/hour or any other rate then in effect as established by the duly adopted Public Works Department fee schedule.
2. In any construction project requiring a City permit and entailing excavation in the public-right-of-way or CalTrans right-of-way, or beneath a railroad, or entailing conduit installation across a bridge, the City may condition approval of that project upon the service provider's concurrent construction, alteration, demolition, installation or repair work to a public work of improvement, as defined by California Labor Code Section 1720. If the City agrees to pay the cost for said public work construction, alteration, demolition, installation or repair work, in so agreeing the City shall contribute no more money, or equivalent of money, to the overall construction project than is required to perform said public improvement work. In addition, the City shall maintain no proprietary interest in the overall construction project other than the public work of improvement so paid for by the City.

D. EXEMPTIONS

1. The Director of Public Works or Water Department Director, or their designee, may exempt projects from the requirements of this policy where compliance is found to be not practical or feasible. Requests for an exemption shall be made in writing and the decision of the Director or the Director's designee shall be final. An exemption application shall include all information necessary for the Director or the Director's designee to make a decision including, but not limited to, documentation showing factual support for the requested exemption. The Director or Director's designee may approve the exemption application in whole or in part and with or without conditions.

2. This policy shall not apply to emergency construction projects. The Director of Public Works or Water Department Director shall determine whether a given construction project is undertaken on an emergency basis for purposes of this policy.