

Telecommunications Improvement Ordinance

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XX.XX.010 Purpose and Findings.

- A. It is the intent of the City of Santa Cruz, in enacting Chapter XX.XX, to streamline and simplify the process of installing and upgrading telecommunications equipment throughout the City, and to encourage improvement and modernization of telecommunications infrastructure.
- B. Access to modern telecommunications infrastructure is vital for communication, education and economic development.
- C. It is the desire of the City to foster a fair and level playing field for all market competitors that does not disadvantage or advantage one service provider or technology over another.
- D. The City seeks to promote widespread access to the most technologically advanced telecommunications services for all City residents and businesses in a nondiscriminatory manner regardless of socioeconomic status.
- E. It is the responsibility of the City to protect and control access to public rights-of-way.
- F. The City has a duty to ensure that all service providers utilizing City property, facilities or rights-of-way comply with all applicable state and local health, safety and other laws.
- G. It is consistent with the City's goals and values to encourage investment in telecommunications infrastructure to help close the digital divide.
- H. It is necessary to update City policies and practices to recognize the authority of the California Public Utilities Commission as established in state and federal statutes.
- I. It is the desire of the City to assess fees sufficient to recover the actual costs of providing services but not to discourage improvement of necessary infrastructure.

XX.XX.015 Definitions.

- A. For the purposes of this Chapter, the following definitions apply:

1. "Telecommunications" refers to data, voice, video or other information provided by wire, fiber optic cable or other technology.
2. "Facilities" and "Infrastructure" refers to wires, cables, conduit, switches, transmission equipment or other equipment for use in transmitting or processing telecommunications services or for providing support or connection to such equipment.
3. "Rights-of-way" refers to the area upon or adjacent to any City-owned road, highway or rail line or along or across any of the waters or lands owned or controlled by the City.
4. "Service providers" refers to any person, company, corporation or other entity providing data, voice, cable, video or other information services by wire, fiber optic cable or other technology.
5. "Excavation" refers to any process which removes material from the ground through digging, drilling, boring or other activity for the purpose of installing utilities, infrastructure or other structures or equipment.
6. "Conduit" refers to a tube, duct or other device or structure designed for enclosing telecommunication wires or cables.
7. "Reconstruction" refers to any project which repairs or replaces fifty percent or more of an existing road, highway or rail line.

XX.XX.020 Telecommunications Infrastructure Improvement.

In recognition of the need to provide local residents and businesses within the community with the infrastructure required to meet their telecommunications needs, all construction, reconstruction or repaving of a City right-of-way will include provisions for the installation of telecommunications cable, conduit and other related equipment wherever practical and feasible. Where appropriate, 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 approach consistent with City requirements. If a project includes excavation in or adjacent to a City right-of-way, installation of or upgrades to telecommunications cable, conduit or other infrastructure will be included as needed. City staff will notify all known providers of the opportunity to join the open trench and help coordinate efforts for multiple parties to join the dig. All installations shall conform to the size, shape, location and other specifications as determined by the Director of Public Works.

XX.XX.025 Implementation.

No less than 60 days before this ordinance takes effect, the City of Santa Cruz shall mail, fax, mail or deliver a copy of it to all telecommunications service providers and other affected entities doing business within the unincorporated City of Santa Cruz.

XX.XX.030 Exemptions.

- A. The Director of Public Works, or the director's designee, may exempt projects from the requirements of this chapter where compliance is found to be not practical or feasible. Requests for an exemption shall be in writing, and the Director's or the director's designee's decision shall be final.

- B. An exemption application shall include all information necessary for the Director of Public Works or the director's designee to make a decision, including but not limited to documentation showing factual support for the requested exemption.
- C. The Director of Public Works or director's designee may approve the exemption application in whole or in part, with or without conditions.

XX.XX.035 Enforcement.

Enforcement of this ordinance shall be as follows:

- A. The Director of Public Works, or designee, shall have primary responsibility for enforcement of this ordinance and shall have authority to issue citations for violation of this chapter. The Director, or designee, is authorized to establish regulations or administrative procedures to ensure compliance with this chapter.
- B. A person or entity violating or failing to comply with any of the requirements of this chapter shall be guilty of an infraction.
- C. The City of Santa Cruz may seek legal, injunctive, or any other relief to enforce the provisions of this chapter and any regulation or administrative procedure authorized by it.
- D. The remedies and penalties provided in this chapter are cumulative and not exclusive of one another.
- E. The Director of Public Works or designee may inspect the premises of any construction, reconstruction, repaving or excavation project to verify compliance with this ordinance.

XX.XX.040 Violations.

Violations of this ordinance shall be enforced as follows:

Violation of this chapter is hereby declared to be a public nuisance. Any violation described in the preceding paragraph shall be subject to abatement by the City of Santa Cruz, as well as any other remedies that may be permitted by law for public nuisances, and may be enforced by injunction, upon a showing of violation.

XX.XX.045 Severability.

If any word, phrase, sentence, part, section, subsection, or other portion of this chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City of Santa Cruz hereby declares that It would have passed this title, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases had been declared invalid or unconstitutional.

XX.XX.050 Effective Date.

This ordinance shall become effective three (3) months after the date of final passage.

XX.XX.055 No Conflict with Federal or State Law.

Nothing in this ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any Federal or State law.

XX.XX.060 Preemption.

The provisions of this chapter shall be null and void if State or Federal legislation, or administrative regulation, takes effect with the same or substantially similar provisions as contained in this chapter. The City Council shall determine whether or not identical or substantially similar statewide legislation has been enacted or regulations issued.

SECTION II

This ordinance shall take effect and be in force six months from the date of adoption.