

RESOLUTION NO. _____ (N.C.S.)

A RESOLUTION ESTABLISHING A POLICY REDUCING UNDERGROUND EXCAVATION FOR COMMUNICATIONS INFRASTRUCTURE WITHIN THE CITY RIGHT OF WAY

WHEREAS, the city of Salinas desires to comply with all mandates regarding public utilities as imposed upon it by state and federal law; and

WHEREAS, it is determined that there is a need for wireless telecommunication facilities in the city of Salinas, and the city of Salinas chooses to use its police power and land use planning authority to regulate such facilities; and

WHEREAS, the City of Salinas has an interest in preserving its streets and roadways for their intended purpose, while minimizing interruptions to the flow of traffic; and

WHEREAS, the City of Salinas currently regulates the installation of wireless telecommunication facilities proposed above ground to be placed in the public right of way in accordance with Resolution No 20810 (N.C.S.); and

WHEREAS, the proposed requirements for excavation of permits and entitlements relative to such projects respond to recent changes in laws concerning regulation of wireless telecommunication facilities and provide mechanisms for the City to maintain an aesthetically pleasing community environment, protect the safety and welfare of Salinas residents, minimize degradation of the residential character of neighborhoods, streets, and roadways, and require the best available design to eliminate visual impacts while ensure that adequate public services and facilities are constructed to accommodate the needs of Salinas residents; and

WHEREAS, pursuant to the California Environmental Quality Act (“CEQA”), the proposed requirements for wireless telecommunication facilities in the public right of way are exempt per section 15061(b)(3), as there is no potential to cause a significant effect on the environment; and

NOW, THEREFORE BE IT RESOLVED by the Salinas City Council that the following policy requirements for all underground communications infrastructure within the public right of way are adopted with the purpose of preserving the health, safety, and welfare of the City’s residents and City property, as follows:

1. The purpose of this Resolution shall be to encourage the growth of underground communications infrastructure facilities while preserving the integrity of the City of Salinas’ (“City”) streets.
2. The City has an obligation to comply with all applicable state and federal authority pertaining to utilities and telecommunications, and intends for this Resolution to be interpreted so as to comply with all such authority.
3. The City has an interest in promoting increased connectivity and emerging technology to its City residents and businesses, as well as to businesses seeking growth opportunities within the City limits.

4. In recognition of the need to provide emerging technology to the historically underserved areas of the City, and in further recognition of the need to minimize public inconvenience and traffic, and to preserve the integrity and lifespan of City streets, all construction, reconstruction, repaving of a City right of way shall include a provision for the installation of a public utility infrastructure, such as conduit, tube, duct, or other device designed for enclosing telecommunications wires, fibers, or cables, wherever practical and feasible. Such infrastructure shall be installed in accordance with City regulations, requirements and specifications, including but not limited to the Salinas Municipal Code, as directed by the Director of Public Works or his/her designee. Such excavation shall not take place more than once on a particular City street within a 5-year period.

5. To the extent feasible, the Director of Public Works or his/her designee shall notify (or require an applicant for such work to notify) all known telecommunications service providers of an impending excavation and afford all such service providers the opportunity to utilize the excavation to install, upgrade, co-locate, repair or improve their telecommunications facilities during such an excavation project. Any such notice shall be provided at least 30 days prior to the commencement of excavation. All service providers utilizing the same excavation shall be responsible for their proportionate share of the excavation costs, including but not limited to the costs of permitting. Such excavation shall not take place more than once on a particular City street within a 5-year period.

6. A permit for excavation shall be required and will be charged based on staff time spent at the rate in effect as established by the duly adopted fee schedule for engineering plan review.

7. The Director of Public Works or his/her designee may exempt projects from these requirements where it is determined that it is not practical or feasible. Requests for an exemption must be made in writing with an explanation as to why the project is not feasible. Cost shall not be the determining factor whether a project is feasible or practical. A determination from the Director of Public Works is the final administrative determination of the matter and is not appealable.

8. The Director of Public Works or his/her designee shall have primary responsibility for enforcement of this policy. Pursuant to the Salinas Municipal Code, excavations not in accordance with this policy shall be considered noncompliant encroachments which have been declared a public nuisance and which are subject to abatement, removal, and injunction by the City of Salinas, as well as by any other remedies provided by law.

PASSED AND APPROVED this 15th day of November 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Joe Gunter, Mayor

ATTEST:

Patricia M. Barajas, City Clerk