

Chapter 5.29

UTILITY JOINT TRENCH AND CONSTRUCTION REQUIREMENTS

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Permit

5.29.010 Applicability.

The provisions of this Chapter and the applicable provisions of the Ripon Municipal Code shall apply to all work performed or facilities or equipment installed or relocated by or on behalf of any public or private utility, including but not limited to, telephone or cable television franchisees, on or within any City public rights-of-way, public property, or public utility easement. For purposes of this Chapter, telephone or cable television franchisees shall be referred to as “Franchise Holders”. (Ord. 845 §1, 2016)

5.29.020 Encroachment Permit.

Prior to commencing any work involving ground disturbance, including

construction, rebuild, or upgrade of facilities or equipment within or upon any City rights of way, public property or public utility easements (including work within a joint trench) a Franchise Holder shall apply for and obtain an Encroachment Permit from the City in accordance with this Chapter, and shall comply with all other applicable laws and regulations, including but not limited to all applicable requirements of Division 13 of the California Public Resources Code, Section 21000 et seq. (the California Environmental Quality Act). The Franchise Holder shall make application for an Encroachment Permit, supplying such information as is necessary as determined by the City Administrator, including, but not limited to, sufficient information to allow the Environmental Review Officer to complete the environmental review process pursuant to the California Environmental Quality Act. The application for Encroachment Permit shall be determined complete when all necessary information, as set forth herein, has been provided, and City staff notifies the applicant that the application is complete. (Ord. 845 §2, 2016)

5.29.030 Mitigation of Impacts – New Construction.

In order to mitigate adverse visual impacts, the City Administrator may impose reasonable conditions of approval in connection with the approval of an Encroachment Permit, including, but not limited to, a requirement that any above-ground facilities or equipment be undergrounded or appropriately screened from public view through the use of landscaping and/or decorative enclosures. The Franchise Holder’s facilities and equipment shall be placed in public utility easements unless otherwise designated by the City. Given the sandy soils that dominate the Ripon area, as identified in the Ripon

General Plan Environmental Impact Report 2035, pages 4-39 and 4-58, it shall be presumed, in the absence of substantial evidence to the contrary, that the following telephone and cable television equipment and facilities can feasibly be installed underground without excessive additional operational or maintenance costs:

Cable Facilities

“Tap” typically serves 4-8 connections and when placed above ground, is housed in an 8 inch by 2 foot green tube.

“Service Laterals” or “Drops” coaxial connection from tap to customer. Typically serves one building per drop.

“Amplifier” typically serves 8-500 connections and when placed above ground, is housed in a 3 foot by 18 inch green box.

Telephone Facilities

“Pedestal Box” typically serves 2-5 customers and when placed above ground is housed in an 8 inch by 8 inch green box.

Cable and telephone facilities that serve greater than 500 customers are typically placed above ground.

The following facilities may be placed above ground due to the large number of residents and businesses that will be impacted by equipment failure:

“Nodes” – location in network where signals are translated from lightwave to RF going to customers and from RF to lightwave going back to headend. Serves 500 – 1000 customers.

“Power Supplies” – hardware components that supply power to network electronics.

Services 500 – 1000 customers. (Ord. 845 §3, 2016)

5.29.040 Mitigation of Impacts – Existing Facilities

Facilities currently placed below ground may be raised above ground when a record of repeat and chronic equipment failure is present. The Utility shall submit an Encroachment Permit application to the City Engineer (or his/her designee), which includes history of outages, number of customers affected, explanation of failure that resulted in the outage, and proposed screening or relocation of the equipment requested by the Utility. The City Engineer (or his/her designee) will review the application and make a determination on a case-by-case basis. (Ord. 845 §4, 2016)

5.29.050 Action on Permit.

The City Administrator or their designee shall either approve or deny a Franchise Holder's application for an Encroachment Permit within 60 days of receiving a completed application. (Ord. 845 §5, 2016)

5.29.060 Explanation of Denial.

If the City Administrator or their designee denies a Franchise Holder's application for an Encroachment Permit, the City Administrator or their designee shall, at the time of notifying the applicant of denial, furnish to the applicant a detailed explanation of the reason or reasons for the denial. (Ord. 845 §6, 2016)

5.29.070 Appeals.

A Franchise Holder that has been denied an Encroachment Permit by final decision of the City Administrator or their designee may appeal the denial to the City Council. Upon receiving a notice of appeal, the City Council shall take one of the following actions:

- A. Affirm the action of the City Administrator or their designee without any further hearing; or
- B. Refer the matter back to the City Administrator or their designee for further review with or without instructions; or
- C. Set the matter for a de novo hearing before the City Council. (Ord. 845 §7, 2016) (

5.29.080 Scope of Review.

In rendering its decision on the appeal, the City Council shall not hear or consider any argument or evidence of any kind other than the record of the matter received from the City Administrator or their designee unless the City Council is itself conducting a de novo public hearing on the matter. (Ord. 845 §8, 2016)

5.29.090 Notification.

Prior to any construction, rebuild, or upgrade pursuant to an approved Encroachment Permit, the Franchise Holder shall establish procedures to notify City residents within 300 feet of the impacted area of construction schedules and activities. Notices must be provided to those persons who work and/or reside in the impacted area. (Ord. 845 §9, 2016)

5.29.100 Restoration of Private and Public Property.

Upon completion of work pursuant to an approved Encroachment Permit, the Franchise Holder shall restore any affected private and public property to a condition equal to or better than its condition prior to construction. Any disturbance of landscaping, fencing, or other improvements upon private or public property shall, at the sole expense of the Franchise Holder, be

promptly repaired or restored. (Ord. 845 §10, 2016)

5.29.110 Penalties for Not Obtaining an Encroachment Permit.

If the Franchise Holder does not obtain the required Encroachment Permit, the City Administrator may issue a Notice of Violation requiring removal of the Franchise Holder's equipment and facilities and restoration of the affected property. In addition, the Franchise Holder shall be subject to the following penalties to be imposed by the City:

- A. For the first occurrence of a breach, a fine of \$1,000.00 may be imposed.
- B. For a second breach of the same nature within 12 months, a fine of \$2,000 may be imposed.
- C. For a third and any additional breach of the same nature within 12 months, a fine of \$5,000 may be imposed. (Ord. 845 §11, 2016)