

CITY OF ALBUQUERQUE
REGULATIONS GOVERNING PUBLIC RIGHT OF WAY EXCAVATION AND
BARRICADING FOR FIBER INFRASTRUCTURE PURPOSES

1. TITLE:

- 1.1 These regulations may be cited as the “Regulations Governing Public Right of Way Excavation and Barricading for Fiber Infrastructure Purposes.”

2. AUTHORITY AND SCOPE:

- 2.1 The Regulations Governing Public Right of Way Excavation and Barricading for Fiber Infrastructure Purposes are promulgated pursuant to the Street Excavation and Barricading Ordinance of the City of Albuquerque, Sections 6-5-2-1 et seq (“Barricading Ordinance.”)
- 2.2 The Regulations provide standard detail requirements that Licensees shall follow while completing any excavation or barricading work within the City of Albuquerque for the purpose of installing fiber infrastructure.
- 2.3 The purpose of these regulations is to ensure that fiber infrastructure projects minimize disruption, are completed timely, safely, and with as little inconvenience as possible to the public, and comply with applicable law, including but not limited to the Barricading Ordinance, the 2020 Edition City Standards for Public Works Construction, as amended, Water Utility Authority requirements, and the State Pipeline Regulations Excavation Handbook.
- 2.4 Licensees are required to ensure that the Licensee and any subcontractor employed by the Licensee to perform right of way (“ROW”) construction for fiber infrastructure purposes comply with applicable ordinances and standards whether such ordinances and standards were in existence at the time of the execution of the License or were enacted thereafter.
- 2.5 Nothing in this Regulation should be construed or interpreted as to affect the City ’s control, regulation and authority over approval and regulatory enforcement of applicable work orders and permits issued by the City and pertaining to construction within City of Albuquerque Right of Way.

3. DEFINITIONS

- 3.1 “Fiber Infrastructure” is defined as the fiber optic cable network and related equipment that facilitate high-speed data transmission. This includes infrastructure as defined as a facility in the license agreement.
- 3.2 “Licensee” is defined as any entity or person who has entered into an agreement with the City of Albuquerque, where the agreement gives license to complete work or occupy any City ROW for fiber infrastructure purposes, but does not include persons or entities having the right to work within or occupy City right of way through an easement or franchise agreement. “Licensee” includes Licensee’s agents, including but not limited to contractors, subcontractors, and any other person or entity authorized to act in any way on the Licensee’s behalf.

4. SIGNAGE AND IDENTIFICATION

- 4.1 All vehicles conducting work for a Licensee within City ROW under a City work order, permit or other agreement shall conspicuously display signage with the name and address of the Licensee. Such signage shall also include a contact phone number, monitored and answered from 7 a.m. to 7 p.m. Mountain Standard Time seven (7) days a week to allow the public to contact the Licensee with any questions or concerns. This contact phone number shall also provide multilingual services as requested.
- 4.2 All contractors conducting work for a Licensee within a City ROW under a City work order, permit or other agreement shall clearly display the name of the Licensee on their outer clothing.
- 4.3 All contractors conducting work for a Licensee and operating in the City ROW shall have written materials available in Spanish and English that include the Licensee’s contact information and information about the work being performed.

5. NOTICE AND TIMING OF CONSTRUCTION WORK

- 5.1 Licensees and their agents are required to deliver two written notices of upcoming work to affected residents. The first notice shall be delivered at least thirty (30) days before construction and a second notice at least 48 hours before construction. Notice shall not include any advertisement for services. The first notice shall include a general description of the work to be performed and the approximate construction date. The second notice shall include more detail physically describing the work to be performed, traffic control set-up, dates and times of activities, and the name and telephone number of the Licensee’s local representative. Licensee will not receive a Barricade or Excavation Permit, or combination thereof, until it has provided the City with documentation showing that the first required written notice has been delivered. Proof

of delivery of the second notice shall be required prior to the first field meeting scheduled by the City's Design Review and Construction section and/or prior to the start of construction. Documentation may include, but is not limited to, photographic or video evidence that the written notice was provided to affected residents, or sent via certified mail.

5.2 In the event Licensee is placing fiber within City ROW, fiber micro trenching, boring and excavating within residential neighborhoods and streets shall only be allowed Monday through Saturday between the hours of 7:00 a.m. and 4:00 p.m. All other fiber network construction and installation shall only be allowed Monday through Saturday between 6:00 a.m. and 7:00 p.m. The City may revise these time restraints in its sole discretion upon written notice.

5.3 The above provisions shall not limit timeframes for conducting emergency repairs or restoration.

6. COORDINATION AND JOINT TRENCHING

6.1 This provision is intended to minimize the number of excavations in a City ROW for local residential streets. In the event a Licensee is placing fiber within City ROW in residential neighborhoods, a moratorium/cooling off period of six (6) months on further fiber construction within that ROW shall commence once construction has been completed, unless Licensees otherwise coordinate to share conduit or excavations. If Licensees have coordinated to share conduit or to have separate conduit installed in the same trenches to avoid additional excavating, then the moratorium/cooling off period shall not preclude the cooperating Licensees from running fiber drop lines to their respective customers. Licensees will advertise planned construction locations to other Licensees for the purpose of providing the opportunity of conduit sharing. At a minimum, such notification shall consist of:

- i. Posting information on the City of Albuquerque's Planning Department website.
- ii. Proof that the notification was advertised for thirty (30) days prior to applying for the barricade and/or excavation permit, and
- iii. Evidence showing that other Licensees declined to participate for purposes of sharing conduit or installing extra conduit in the single excavation.

7. COMPLAINTS AND RESTORATION

7.1 Licensees shall respond to complaints within 24 hours of receipt, by either notifying the complainant that the issue has been resolved or by providing an explicit timeframe in which the issue will be resolved. Licensees shall also provide the name and contact information of a person to whom the complainant can address any follow-up questions.

- 7.2 If the City determines that there have been an excessive number of complaints or excessive damage related to the Licensee's activity, the City may – at its sole discretion – order the Licensee to immediately stop work until such time as the Licensee has addressed and remediated all outstanding complaints to the satisfaction of the City. This does not limit the City's authority to stop work pursuant to the license or applicable law.
- 7.3 Licensee is required to engage, at their own expense, a third-party professional services firm licensed in engineering and inspection services approved in advance by the City to confirm that work within City ROW complies with License requirements, City ordinances, rules, and construction standards, including requirements under any permits or work orders issued by the City. Licensee is required to provide the name of such firm to the City upon request for a work order.
- 7.4 Soft scape and asphalt restoration within City ROW and authorized under a City issued work order or permit shall be completed within 72 hours. Cement restoration shall be temporarily completed within 72 hours and permanently completed within fifteen (15) calendar days, including but not limited to restoration of sidewalk and concrete collars around other existing infrastructure. Permanent cement restoration shall not be held up for any reason, regardless of the amount of cement needed.
- 7.5 Licensee will be responsible for the removal of all temporary utility markings (spray-paint, whiskers etc.) applied for the construction project within 30 days of completion of installation.

8. SOLICITATION

- 8.1 All solicitation efforts must strictly follow the City of Albuquerque's Solicitation Ordinance.

9. ENFORCEMENT

- 9.1 Failure to follow these guidelines, or any provisions of §§ 6-5-2-1 et seq., or other applicable law, regulation, rule or agreement with the City, shall result in enforcement or abatement actions, as determined at the discretion of the Mayor or designee, up to and including termination of applicable work order(s) or permit(s), suspension of the privilege of acquiring new work order or permits, or termination of the license agreement. Nothing in these required guidelines shall be construed as to limit in anyway of enforcement and abatement actions the City may have available as a matter of law, rule or regulation against Licensees working in or occupying City ROW.