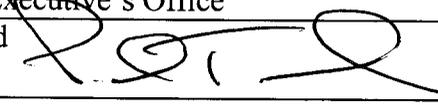




Title Emergency Order Designating Voluntary Process for Allowing Wireline Communication Companies Construction Access and Use of County Road Right- Of-Way	Document Code No.  RPM 12-2 AEO
Department/Issuing Agency County Executive's Office	Effective Date. May 20, 1999
Approved 	

An Emergency Order establishing an interim process for allowing wireline communication companies construction access and use of the County-owned road right-of-way which shall be coordinated by the Office of Cable Communications, Department of Information and Administrative Services and executed by the Property Services Division of the Department of Construction and Facilities Management and which shall be effective until such time as King County adopts an ordinance which provides for wireline company use of County owned right-of-way and the conditions under which such use can be secured.

**WHEREAS**, wireline communication encompasses the provision of commercial telecommunication services over fiber optic cable; and

**WHEREAS**, wireline communication services and facilities comprise a rapidly growing segment of the communication industry with benefits to King County and its associated communities; and

**WHEREAS**, many wireline communication companies wish to site facilities in County road right-of-way; and

**WHEREAS**, the County has not yet passed legislation specifying the conditions in which such companies can site facilities within County road right-of-way as a means to adequately protect the interests of the County and its citizens; and

**WHEREAS**, the County Executive intends to propose an ordinance ("Telecommunications Ordinance") to the County Council authorizing and regulating the siting of wireline communication facilities in County road right-of-way with compensation to the County and that the development and drafting of such ordinance is underway; and

**WHEREAS**, the County has existing procedures to review and issue permits for right-of-way construction and use which may be adaptable to wireline communication facility siting on an interim and voluntary basis; and

**WHEREAS**, the County recognizes that wireline facilities may generate interference problems with emergency and other public communication and transportation facilities if not sited carefully; and

**WHEREAS**, the County recognizes that wireline communications constitute a viable industry within King County and its environs, contributing to the economic development of the region, and that the unregulated siting of wireline facilities in road right-of-way may have economic impacts upon businesses, governments and the public; and

**WHEREAS**, the County also recognizes that it is in the public's best interest to have access to wireline communication; and,

**WHEREAS**, the County has an obligation to manage the rights-of-ways it holds in trust for the public and to obtain fair, reasonable, and non-discriminatory compensation for use of these rights-of-way.

NOW, THEREFORE, the King County Executive hereby makes and proclaims the following Order:

1. Effective immediately, a process shall be developed for reviewing and deciding requests for the siting of wireline telecommunication facilities in the County road right-of-way, consistent with this Order. In exchange for the processing of such requests prior to the adoption of the Telecommunications Ordinance by King County, the permittee shall fully comply with all requirements of this Order, permit conditions, County procedures and policies and all applicable laws and regulations.
2. The Property Services Division of the Department of Construction and Facilities Management shall be responsible for coordinating the processing of requests to place wireline communication facilities in the County road right-of-way and negotiating and executing permits with wireline companies which adopt the provisions of this Executive Order, and the Property Services Division shall process these requests as right-of-way construction permits.
3. The Property Services Division is hereby authorized, when appropriate reviews have been completed, to issue right-of-way construction permits to govern the siting and operation of wireline communication facilities in County road right-of-way.
4. The right-of-way construction permits shall, at a minimum, include special conditions which:
  - provide the County the same rights and protections as are included in existing utility franchises including, but not limited to, the provisions governing the installation, repair, removal or relocation of facilities at no cost to the County;
  - ensure and protect the County's provision of transportation and emergency services;
  - require restoration of the right-of-way to the satisfaction of the applicable custodial County agency and to the pre-work condition of that right-of-way;
  - require appropriate levels of bonding.
  - allow the permittee access and use of the County right-of-way upon written agreement that the permittee shall comply with the upcoming Telecommunications Ordinance within one year after the effective date of that Ordinance and shall comply with the compensation provisions of that Ordinance; and
  - are necessary to protect the health, welfare, safety, environment and other interests and rights of the citizens of King County.

- Provide for just, reasonable compensation for use of County rights-of-way per the attached fee schedule.
5. This order shall remain in effect until such time as the Telecommunications Ordinance is adopted into law or until this Order is rescinded, whichever is first.

DATED THIS 20TH DAY OF May, 1999.



Ron Sims  
King County Executive



Enclosure: Attachment A

ATTEST:

*Ann Moses for Jerry Alcantara*

Manager, Records and Elections

Attachment A  
 Compensation for Use of right-of-way  
 Underground and Above Ground Wires and Cables

All companies wanting to install fiber optic lines and/or conduits to hold fiber optic lines on rights-of-way owned or controlled by King County under this Emergency Order shall pay an annual monetary fee and/or an in-kind fee as set out below or an in kind fee as negotiated between King County and the permittee.

A. Annual fee for above ground and underground wires, cables, and conduits.

Fees for underground and above ground telecommunications cables, wires and conduits shall be calculated from the base charges set forth in Table One. All fees are annual charges, based on a per linear foot charge. The annual charges are applied on a per cable wire or conduit basis. Fees for aerial installation on poles are per cable bundle.

Table One Annual Fees for Telecommunication Facilities in King County Right-of-Way			
Type of Facility	Category 1 Prime Urban or Potential Annexation Area	Category 2 Urbanized	Category 3 Rural
Base fees (four inch conduit with five cables or wires)	\$1.00 per linear foot	\$0.50 per linear foot	\$0.25 per linear foot
<b>Underground Conduit:</b>			
Conduit less than four inches in diameter	40 percent of base fee	40 percent of base fee	40 percent of base fee
Conduit equal to four inches in diameter	50 percent of base fee	50 percent of base fee	50 percent of base fee
Conduit more than four inches in diameter	60 percent of base fee	60 percent of base fee	60 percent of base fee
<b>Underground cables and wires:</b>	10 percent of base fee	10 percent of base fee	10 percent of base fee
<b>Above ground cables and wires</b>	10 percent of base fee	10 percent of base fee	10 percent of base fee

1. Category 1: Prime Urban or Potential Annexation Area- Wire and cable located in urbanized areas within cities or within potential annexation boundaries of cities with a population in excess of 50,000 population.

2. Category 2: Urbanized Area – Wire and cable located in County urban growth area except for those areas designated Category 1.

3. Category 3: Rural Area – Wire and cable located in County designated rural or resource and other lands.

B. In-kind fee for underground and above ground wires, cables, and conduits.

1) The following fee schedule shall apply for above ground and below ground wires, cables, and conduits whenever the Applicant proposes to install fiber optic cable and/or conduit to hold fiber optic cable and the total length of the installation is 1000 linear feet or more.

a) **Aerial installation of optical fibers.** When the permittee installs single-mode fiber, it shall also install no less than twelve strands of the same type of fiber for the County's exclusive use including service loops. These fibers may be installed as a separate bundle or, at the permittee's option, be added to its own bundle.

b) **Installation of conduit by trenching.** When the permittee installs conduit by trenching, the permittee shall install one additional conduit of similar size, material, and configuration for the County's exclusive use.

c) **Installation of conduit by plowing.** When the permittee installs conduit by plowing, the permittee shall, at its option, either install one additional conduit of similar size, material, and configuration for the County's exclusive use, install conduit with interduct and dedicate one interduct of at least 1 inch in diameter for the County's exclusive use, or install fiber as provided in subparagraph B. 1. a..

- d) **Installation of conduit by boring.** When permittee installs conduit by boring, the permittee shall, at its option, either install conduit with interduct and dedicate one interduct of at least 1 inch in diameter for the County's exclusive use, or install fiber as provided in subparagraph a.
- e) **Installation of conduit by other means.** When the permittee installs conduit other than by a means listed in subsections B.1. a through B.1.d immediately above, the permittee shall install one additional conduit, of similar size, material, and configuration to the conduit it is installing for itself, for the County's exclusive use.
- f) Whenever the permittee installs conduit and/or interduct for the County's use, the permittee shall also install in each conduit and interduct either a separate pull rope that the County may use to install fibers or a bundle of not less than twelve strands of single mode fiber.
- g) **Direct burial of optical fibers.** When the permittee installs cables without the use of conduit, the permittee shall install for the County's exclusive use a bundle of not less than twelve strands of single mode fiber.
- 2) All fiber and conduit installed for the County's benefit shall be clearly so labeled, and shall be retained for the County's sole use in perpetuity. If the permittee chooses to install a pull rope rather than to install fiber for the County's use, the permittee shall insure that no action is taken that would have the effect of prohibiting or substantially hindering the County's ability to install fiber in these facilities. When the permittee installs cable for its own purposes, it shall also install for the County's sole use a bundle of not less than twelve strands of single mode fiber.
- 3) All fiber, interduct and conduit installed for the County's use shall be routed through the same vaults, handholds, manholes, and similar structures (the "access points") used by the permittee to access its own system. The County shall have the right to require the permittee to install additional access points. The County and its designees shall have the absolute right to access

the access points at any time to install, repair, maintain, test, and replace its fiber and conduit, except that the permittee may restrict the County's access if the Manager of the King County Information and Administrative Services Division ("ITS") and the permittee agree, in writing, that the permittee will undertake the installation, repair, maintenance, testing, or replacement at its sole cost and in a matter and time agreeable to both parties and the work is proceeding in the agreed upon schedule and manner. The County may install fiber in the conduit and interduct the permittee has installed for the County's use and may splice additional fibers to those fibers installed for the County. The County shall endeavor to give the permittee reasonable notice prior to working on the County's conduit, interduct, and fiber and entering into the Facilities.

C. Information and Payment of Fees

- 1) Upon the completion of construction the permittee shall send the Office of Cable Communications a statement, signed by an official of the permittee who is authorized to legally bind the permittee, certifying that it has satisfactorily completed all work required under the Attachment A. The statement shall include: the number and date of issuance for the Permit under which the permittee installed its equipment; the number of linear feet of right-of-way used as a result of installation under the permit and the date the installation was completed; the means used to identify fibers, conduits, and interducts installed for the County's use; a statement showing the type and number of fibers, conduits, and interducts installed for the County's use; and a map showing the location of the fibers, conduits, and interducts set aside for the County, access points, splice points, and the location and length of service loops. These maps shall be submitted both in hard copy and in digital format.
- 2) The statement shall be accompanied by a check payable to the King County Office of Finance for the first Annual Fee payment and shall cover the period from the permit's date of issuance up

to and including December 31, 1999. Charges for portions of a full month shall be prorated based on the number of days remaining in the month.

- D. All activities required by this permit including actions required by Attachment A shall be at the permittee's sole cost and expense unless otherwise indicated.