

RIGHT OF WAY ENCROACHMENT APPLICATION
DEVELOPMENT SERVICES (919) 372-7467
105-B UPCHURCH STREET, PO BOX 250
Apex, North Carolina 27502

Last updated: February 2022



PLAN SUBMITTALS: Application, plans, and any other supporting documentation shall be uploaded to [IDTPlans](#) using the Right of Way Encroachment Application type. For instructions on using the IDTPlans site, please visit our [web page](#).

Date of Submittal: _____

Project Name _____

Location _____

Owner _____

Contact Name _____

Street Address, City, State, Zip _____

Phone Number _____

E-Mail Address _____

Prepared by (Design Firm) _____

Designer (First, Last Name) _____

Street Address, City, State, Zip _____

Phone Number _____

E-Mail Address _____

Certification Statement:

- I certify that all information requested on the Right of Way Encroachment Application checklist has been included as part of this Right of Way Encroachment drawing submittal and to the best of my knowledge the information provided is complete and accurate.

Owner's Signature: _____

****THIS APPLICATION AND ASSOCIATED RIGHT OF WAY ENCROACHMENT PLANS SERVE AS A MINIMUM GUIDE ONLY AND ARE NOT TOTALLY INCLUSIVE OF ALL FEDERAL, STATE, OR LOCAL REQUIREMENTS. IT IS THE DUTY OF THE PROJECT OWNER AND DESIGN PROFESSIONAL TO ENSURE ALL REQUIREMENTS ARE MET****

RIGHT OF WAY ENCROACHMENT PLAN CHECKLIST

- Include all street names and state road numbers
- All existing public and private storm drainage, water, and sewer infrastructure clearly shown and labeled
- Utility Profiles required (Water/Sewer/Storm Drain) in cases where there are conflicting utilities and/or where there are separations of less than 10' horizontally. Clearly label all conflicts and separations.

COVERSHEET

- Add the following contact information to the **Cover Sheet** of the Construction Plan

Town of Apex Electric Utilities
Rodney Smith, Electric Technical Services Manager
Phone: 919-249-3342
rodney.smith@apexnc.org

Town of Apex Infrastructure Inspections
Dewayne Carlyle, Infrastructure Inspections Manager
919-249-3386
dewayne.carlyle@apexnc.org

Town of Apex Water Resources
Water/Sewer Operations
Jimmy Cornell, Utilities Operations Manager
919-249-3536
jimmy.cornell@apexnc.org

Town of Apex Public Works & Transportation
Right-of-Way
Chad Lemasters, Public Works Operations Manager
919-249-3412
chad.lemasters@apexnc.org

- Add the following certification statements to the **Cover Sheet** of the Construction Plan

ELECTRIC TOWN OF APEX CERTIFICATION

This drawing has been reviewed by the Town of Apex Electric Department, and to the best of my knowledge and belief, conforms to the requirements established in the Standard Specifications & Standard Details and the Unified Development Ordinance of the Town of Apex. However, this signature does not constitute a variance from any requirements contained in any federal, state, or local code, law, specification, rule or ordinance. It is the sole responsibility of the owner/developer, or any of their agents or contract professionals to ensure that this construction plan meets all the aforementioned requirements.

By: _____

PUBLIC WORKS & TRANSPORTATION TOWN OF APEX CERTIFICATION

This drawing has been reviewed by the Town of Apex Public Works & Transportation Department, and to the best of my knowledge and belief, conforms to the requirements established in the Standard Specifications & Standard Details and the Unified Development Ordinance of the Town of Apex. However, this signature does not constitute a variance from any requirements contained in any federal, state, or local code, law, specification, rule or ordinance. It is the sole responsibility of the owner/developer, or any of their agents or contract professionals to ensure that this construction plan meets all the aforementioned requirements.

By: _____

PLANNING/ZONING TOWN OF APEX CERTIFICATION

This construction drawing has been reviewed by the Town of Apex Planning Department, and to the best of my knowledge and belief, conforms to the standards of the Town of Apex Unified Development Ordinance. This signature does not constitute a variance from any requirements any federal, state, or local code, law, specification, rule, guideline, or ordinance. It is the sole responsibility of the owner/developer, or any of their agents or contract professionals to ensure that this construction plan meets all the aforementioned requirements.

By: _____

WATER RESOURCES UTILITY ENGINEERING TOWN OF APEX CERTIFICATION

This drawing has been reviewed by the Town of Apex Water Resources Department, and to the best of my knowledge and belief, conforms to the requirements established in the Standard Specifications & Standard Details of the Town of Apex. However, this signature does not constitute a variance from any requirements contained in any federal, state, or local code, law, specification, rule or ordinance. It is the sole responsibility of the owner/developer, or any of their agents or contract professionals to ensure that this construction plan meets all the aforementioned requirements.

By: _____

- Add the signature block below to the lower right-hand corner of every construction plan sheet. **Do not add to the Cover Sheet.**

The signatures affixed below certify that this sheet has been reviewed and approved solely per the certifications signed on the cover sheet of these construction plans.	
_____	_____
Public Works – Transportation	Planning
_____	_____
Electric	Water Resources – Utility Engineering

RIGHT OF WAY ENCROACHMENT PLAN CHECKLIST - CONTINUED

- Please add the following notes to the Plan Set:
1. The fiber-to-the-premises infrastructure network (hereinafter “FTTP Network”) may consist of aerial or underground fiber optic cables, lines, or strands; underground conduits, vaults, access manholes and handholes; electronic equipment; power generators; batteries; pedestals; boxes; cabinets; huts; and other similar facilities.
 2. The Owner, its contractors, subcontractors, employees, and agents shall:
 - (a) take all necessary steps, including but not limited to, contacting North Carolina 811 at least three days prior to any digging or excavation to ensure that any activity or operation will not interfere with, damage, disrupt, or interrupt any utility located in the Right of Way (“ROW”), above or below ground;
 - (b) notify the Town at least five (5) business days before commencing work at a Town ROW location, take reasonable steps to notify residents of buildings in the area of the affected ROW that work will be performed. Work shall not begin until approval to proceed has been provided by the Town after the pre-construction meeting.
 - (c) in the event the owner will be placing Network Facilities in the ROW, none shall be placed within five (5) feet of a town water or sewer line or any other Town-owned utility line. Within 10’ Owner shall use non-mechanical excavation prior to placement of the structure to ensure that the structure will not damage or interfere with any Town owned infrastructure currently in place in the ROW;
 - (d) provide proper traffic control devices in conformance with the latest Manual on Uniform Traffic Control Devices for Streets and Highways (“MUTCD”), including but not limited to signs, signal lights, and flagmen for the protection of traffic and amendments or supplements thereto during any installation or maintenance of the Network Facilities; Owner shall provide at least five (5) business days’ notice to the Town of any work which will require lane closure or traffic control measures; Owner shall follow all federal, state, and local accessibility regulations, including the MUTCD and the Americans with Disabilities Act;
 - (e) install, operate, repair and maintain the Network Facilities at Owner’s sole cost and expense and in accordance with federal, state, and local law, and the Town Standard Specifications and Standard Details, as may be amended from time to time. Construction, installation, operation, and maintenance of Network Facilities shall not endanger, inhibit, prevent, or interfere (i) with use of a ROW as a way of passage, (ii) with traffic on any ROW, (iii) with the maintenance of any ROW, (iv) with operation or maintenance of any Town-owned infrastructure located within or adjacent to the ROW, including but not limited to electric lines or

poles, underground fiber, and water or sewer lines, or (v) with operation or maintenance of any other infrastructure or equipment lawfully located within the ROW;

- (f) in the event Owner damages any existing gas, electric, communications, water, sewer, or other utility facilities, Owner shall immediately cease work and notify the Town and the affected utility company of the damage. Owner will not resume work where damage has occurred until the Town determines that the danger to the public and the utility facilities has been eliminated;
- (g) promptly repair any damage to the ROW, all Town-Owned infrastructure, and all other areas disturbed during installation, operation, repair and maintenance of the Network Facilities, including but not limited to pavement, sidewalk, curb and gutter, drainage systems, signs, signal equipment, pavement markings, underground fiber, utility poles, electric lines, and water or sewer lines, and shall restore same to the condition existing prior to Owner's disturbance, re-establishing grass cover with seeding and spreading of straw for finishing, all to the Town's satisfaction which shall be based on the industry standards for such activity;
- (h) comply with all Town ordinances, rules, and regulations regarding stormwater discharge and soil erosion and sedimentation control as well as the Town's Standard Specifications and Standard Details for roadway and utility construction;
- (i) reimburse the Town for any reasonable costs or expenses incurred by the Town for any repairs or maintenance to the ROW, any Town-owned infrastructure, or other Town-owned structures resulting from or related to the installation, operation, maintenance, repair, or existence of the Network Facilities following receipt of invoices from the Town detailing those costs and/or expenses, including supporting documentation evidencing them, if requested and available;
- (j) in the event that Town, its employees, agents, or contractors, in Town's sole discretion, need to conduct work in the ROW that will conflict with the Network Facilities, Owner shall within a commercially reasonable time, remove or alter the Network Facilities at its cost, unless applicable law provides otherwise. In the event of a public emergency that creates an imminent threat to the health, safety, or property of the Town or its residents, the Town may remove or relocate any applicable Network Facilities without notice to Owner. Town will provide Owner a detailed description of any emergency removals or relocations of Network Facilities. If Owner abandons any portion of its Network Facilities for one year or more Owner shall notify the Town and remove the Network Facilities at Owner's expense;
- (k) comply with all applicable Federal, State, and local laws and regulations. Owner, and all subcontractors, shall comply with Article 2, Chapter 64, of the North Carolina General Statutes; and
- (l) maintain valid general liability insurance in the combined single limit (bodily injury and property damage) amount of \$5,000,000 general aggregate, commercial automobile liability insurance in the minimum amount of \$2,000,000, and provide certificates of such insurance naming the Town of Apex as an additional insured by endorsement to the policies. Owner shall maintain an umbrella excess policy in the minimum amount of \$3,000,000 over primary insurance. Additionally, Owner shall maintain and show proof of workers' compensation within the NC statutory limits and employer's liability insurance in the minimum amount of \$1,000,000. Owner shall provide notice of cancellation, non-renewal or material change in coverage to the Town of Apex within 10 days of their receipt of notice from the insurance company. All required certificates of insurance, endorsements, and blanket additional insured policy provisions are attached and considered part of this document. Notwithstanding the foregoing, neither the requirement of Owner to have sufficient insurance nor the requirement that the Town is named as an additional insured, shall constitute waiver of the Town's governmental immunity in any respect, under North Carolina law. All insurance certificates, endorsements, coverage verifications and any other items required shall be mailed directly to:

Town of Apex
Attn: Mark Willing
PO Box 250
Apex, NC 27502

4. Microtrenching. Installation of Network Facilities through the use of microtrenching (installing conduits within the edges of sidewalk or roads) that in any way impacts any Town-Owned street, road, sidewalk, curb, gutter, or infrastructure of any kind is **prohibited** unless first approved in writing by the Town.
5. As-Built Maps. Owner will maintain accurate as-built drawings and maps of its Network Facilities located in the Town and provide them to the Town upon request.
6. Required Relocation. In the event Owner's Network Facilities would interfere with the Town's use of the ROW, including but not limited to, construction or installation of water, sewer, or electric lines, or construction/relocation of a public road, Owner will, upon written notice from the Town, relocate its Network Facilities at Owner's expense to another location in the public ROW as may be agreed upon by the Parties. Relocation shall occur within a reasonable time period after receiving notice from the Town. Except in the event of an emergency as described in this Agreement, Town shall provide no less than 180 days' notice of a required relocation.
7. Contractors and Subcontractors. Owner may retain contractors and subcontractors to perform the work contemplated by these Right of Way Encroachment Plans on behalf of Owner. Owner will notify the Town in writing at time of the pre-construction meeting of the identity of and contact information for each contractor and subcontractor performing any work for the Owner in the Town prior to commencement of the work by the contractor or subcontractor. The contact information to be provided to the Town shall include the contractor's state license information and the name, telephone number, and e-mail address of the contractor/subcontractor representative with supervisory authority of the work.
8. Notices to the Town shall be sent to:

Town of Apex
Attn: Assistant Town Manager
PO Box 250
Apex, NC 27502

Notices are effective when delivered in person, upon confirmation of receipt when sent by facsimile or electronic mail, on the next business day if transmitted by registered or certified mail, postage prepaid (with confirmation of delivery), on the next business day if transmitted by overnight courier (with confirmation of delivery), or three (3) days after the date of mailing, whichever is earlier.

- Please add the following Construction Sequence to the Plan Set:

Town of Apex Construction Sequence

The following begins only after Right of Way Encroachment Plans are approved and signed by Town staff.

1. Through the Infrastructure Inspections Manager at (919) 249-3386, schedule a pre-construction meeting with inspectors and other Town staff.
2. Provide contact information to the Town shall include the contractor's state license information and the name, telephone number, and e-mail address of the contractor/subcontractor representative with supervisory authority of the work.
3. After completion of any phase of construction, stabilize site as areas are brought up to finished grade with vegetation or paving and restore to original condition.

RIGHT OF WAY ENCROACHMENT PLAN PROCESS INFORMATION

TIMING OF APPROVALS:

1. Applicant shall submit Right of Way Encroachment Plans and this application to Development Services through [IDTPlans](#).
2. Right of Way Encroachment Plans must go through the Right of Way Encroachment Plan review process and be approved by Town staff prior to the start of any work.
 - Staff member reviews electronic construction plan submittals and items submitted to Development Services.
 - If plan is incomplete, applicant is notified and must re-submit complete plans by the submittal deadline of the following month for review.
 - If plan is complete, staff releases electronic plans to Town staff members for review.
 - Staff e-mails any comments to applicant through IDTPlans.
 - Applicant submits revised electronic plans through IDTPlans.
 - Once plan is approved, Development Services staff will notify the applicant to download the signed plans from IDTPlans.
3. **Schedule Pre-Construction Meeting with Dewayne Carlyle, Infrastructure Inspections Manager at (919) 249-3386 (dewayne.carlyle@apexnc.org) prior to any work commencing.**