

## **Chapter 13.16 UNDERGROUNDING UTILITY FACILITIES**

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### **13.16.010 Definitions.**

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Commission" means the Public Utilities Commission of the state.

"District" or "underground utility district" means that area in the city within which poles, overhead wires and associated overhead structures are prohibited as such area is described in a resolution adopted pursuant to the provisions of Section 13.16.030 of this chapter.

"Person" means and include individuals, firms, corporations and partnerships and their agents and employees.

"Poles, overhead wires and associated overhead structures" means poles, towers, supports, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulation, cutouts, switches, communication circuits, appliances, attachments and appurtenances located aboveground within a district and used or useful in supplying electric, communication or similar or associated services.

"Utility" means and includes all persons or entities supplying electric, communication or similar or associated services by means of electrical materials or devices.

(Prior code § 7-3.01)

### **13.16.020 Hearings—Notices—Determinations.**

The council may from time to time set public hearings to ascertain whether the public necessity, health, safety or welfare requires the removal of poles, overhead wires and associated overhead structures within designated areas of the city and the underground installation of wires and facilities for supplying electric, communication or similar or associated services. The city clerk shall notify by mail all affected property owners, as shown on the last equalized assessment roll and utilities concerned of the

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time and place of such hearings at least ten (10) days prior to the date thereof. Each such hearing shall be open to the public and may be continued from time to time. At such hearings all persons interested shall be given an opportunity to be heard. The decision of the council shall be final and conclusive.

(Prior code § 7-3.02)

#### **13.16.030 Designation of districts.**

If, after such public hearing provided for in Section 13.16.020 of this chapter, the council finds that the public necessity, health, safety and welfare requires such removal and such underground installation within a designated area, the council, by resolution, shall declare such designated area an underground utility district and order such removal and underground installations. Such resolution shall include a description of the area comprising such district and shall fix the time within which such removal and underground installations shall be accomplished and within which affected property owners shall be ready to receive underground services. A reasonable time shall be allowed for such removal and underground installations, having due regard for the availability of the labor, materials and equipment necessary for such removal and for the installation of such underground facilities as may be occasioned thereby.

(Prior code § 7-3.03)

#### **13.16.040 Unlawful acts.**

Whenever the council creates an underground utility district and orders the removal of poles, overhead wires and associated overhead structures therein, as provided in Section 13.16.030 of this chapter, it is unlawful for any person or utility to erect, construct, place, keep, maintain, continue, employ or operate poles, overhead wires and associated overhead structures in such district after the date such overhead facilities are required by resolution to be removed, except such overhead facilities which may be required to furnish services to an owner or occupant of property prior to the performance by such owner or occupant of the underground work necessary for such owner or occupant to continue to receive utility service as set forth in Section 13.16.090 of this chapter and for such reasonable time required to remove such facilities after such work has been performed and except as otherwise provided in this chapter.

(Prior code § 7-3.04)

#### **13.16.050 Exceptions—Emergencies or unusual circumstances.**

Notwithstanding the provisions of this chapter, overhead facilities may be installed and maintained for a period, not to exceed ten (10) days, without the authority of the council, in order to provide emergency services. The council may grant special permission, on such terms as it may deem appropriate, in cases of unusual circumstances, without discrimination as to any person or utility, to erect, construct, install, maintain, use or operate poles, overhead wires and associated overhead structures.

(Prior code § 7-3.05)

#### **13.16.060 Other exceptions.**

The provisions of this chapter and any resolution adopted pursuant to the provisions of Section 13.16.030 of this chapter shall not apply to the following types of facilities, unless otherwise provided in such resolution:

- A. Any municipal facilities or equipment installed under the supervision and to the satisfaction of the city engineer;

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- B. Poles or electroliers used exclusively for street lighting;
- C. Overhead wires (exclusive of supporting structures) crossing any portion of a district within which overhead wires have been prohibited or connecting to buildings on the perimeter of a district, where such wires originate in an area for which poles, overhead wires and associated overhead structures are not prohibited;
- D. Poles, overhead wires and associated overhead structures used for the transmission of electric energy at nominal voltages in excess of thirty-four thousand five hundred (34,500) volts; provided, however, this exception shall not be construed to alter, amend or repeal the provisions of the zoning regulations requiring a use permit for overhead electric transmission lines in excess of sixty thousand (60,000) volts capacity;
- E. Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another location on the same building or to an adjacent building without crossing any public street;
- F. Antennas, associated equipment and supporting structures used by a utility for furnishing communication services;
- G. Equipment appurtenant to underground facilities, such as surface-mounted transformers, pedestal-mounted terminal boxes and meter cabinets and concealed ducts; and
- H. Temporary poles, overhead wires and associated overhead structures used or to be used, in conjunction with construction projects.

(Prior code § 7-3.06)

#### **13.16.070 Notices to property owners and utility companies.**

- A. Within ten (10) days after the effective date of a resolution adopted pursuant to the provisions of Section 13.16.030 of this chapter, the city clerk shall notify all affected utilities and all persons owning real property within the district thereby created of the adoption of such resolution. The city clerk shall further notify such affected property owners of the necessity that, if they or any person occupying such property, desire to continue to receive electric, communication or similar or associated service, they or such occupant, shall provide all the necessary facility changes on their premises so as to receive such services from the lines of the supplying utilities at a new location, subject to the applicable rules, regulations and tariffs of the respective utilities on file with the commission.
- B. Such notification by the city clerk shall be made by mailing a copy of the resolution adopted pursuant to the provisions of Section 13.16.030 of this chapter, together with a copy of the provisions of this chapter, to the affected property owners, as they are shown on the last equalized assessment roll and to the affected utilities.

(Prior code § 7-3.07)

#### **13.16.080 Responsibility of utility companies.**

If underground construction is necessary to provide utility service within a district created by any resolution adopted pursuant to the provisions of Section 13.16.030 of this chapter, the supplying utility shall furnish that portion of the conduits, conductors and associated equipment required to be furnished by it under its applicable rules, regulations and tariffs on file with the commission.

(Prior code § 7-3.08)

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**13.16.090 Responsibility of property owners.**

- A. Every person owning, operating, leasing, occupying or renting a building or structure within a district shall construct and provide that portion of the service connection on his or her property between the facilities referred to in Section 13.16.080 of this chapter and the termination facility on or within such building or structure being served, all in accordance with the applicable rules, regulations and tariffs of the respective utilities on file with the commission.
- B. In the event any person owning, operating, leasing, occupying or renting such property does not comply with the provisions of subsection A of this section within the time provided for in the resolution enacted pursuant to the provisions of Section 13.16.030 of this chapter, the director of public works shall post written notice on the property being served and thirty (30) days thereafter shall have the authority to order the disconnection and removal of any and all overhead service wires and associated facilities supplying utility service to such property.

(Prior code § 7-3.09)

**13.16.100 Responsibility of city.**

The city shall remove, at its own expense, all city-owned equipment from all poles required by the provisions of this chapter to be removed in ample time to enable the owner or user of such poles to remove the poles within the time specified in the resolution enacted pursuant to the provisions of Section 13.16.030 of this chapter.

(Prior code § 7-3.10)

**13.16.110 Extensions of time.**

In the event any act required by the provisions of this chapter or the resolution adopted pursuant to the provisions of Section 13.16.030 of this chapter cannot be performed within the time provided on account of shortages of materials, war, restraint by public authorities, strikes, labor disturbances, civil disobedience or any other circumstances beyond the control of the actor, the time within which such act will be accomplished shall be extended for a period equivalent to the time of such limitation.

(Prior code § 7-3.11)