

Chapter XX.XX UNDERGROUND WIRING

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XX.XX.010 Scope.

A. It is found and determined by the city that the general necessity, convenience, health, safety and welfare require that electrical and telecommunication utility facilities be constructed underground in an orderly manner in accordance with the requirements specified in this chapter.

B. The scope of this chapter is to provide policies and standard procedures for regulation of installation, operation and management of all aerial and underground utility wiring and conduits within the city of Enumclaw.

C. This chapter shall apply to all electrical and telecommunication utility facilities, including but not limited to power, telephone and cable television facilities, within the corporate city limits; provided, however, the facilities identified in EMC [XX.XX.020](#) are excepted from the undergrounding requirements of this chapter.

D. This chapter clarifies the applicability of all other titles, and all other chapters of this title, of the Enumclaw Municipal Code regarding the subject of undergrounding, to foster management of city rights-of-way to the benefit of the public and to prescribe the specific procedures and permits to be used to regulate each activity.

E. All improvements subject to this chapter shall also meet the requirements of the engineering design and construction standards of the city.

F. In addition to the provisions of this chapter, Chapter 3.40, Cable System Regulations, also governs the installation and management of all underground facilities related to cable television services and franchises within the corporate boundaries of the city.

~~G. In addition to the provisions of this chapter, ACC Title [20](#), Telecommunications and Other Commercial Utilities, also governs the installation and management of all underground facilities related to commercial utilities and telecommunication services and Chapter [12.24](#) ACC, Construction Permits, also governs right of way agreements, franchises, and leases within the corporate boundaries of the city.~~

G. In the event of a conflict between the provisions of this chapter and other portions of the Enumclaw Municipal Code, the provisions of this chapter shall control.

XX.XX.020 Exceptions.

With the approval of the city engineer, the following facilities are exempt from the undergrounding requirements of this chapter:

A. Electric utility substations, pad mounted transformers and switching facilities not located on the public right-of-way and authorized through existing or future site-specific development approvals;

B. Electric aerial transmission facilities of a voltage of more than 15,000 volts, including poles, wires and associated facilities;

C. Street lighting and traffic control equipment as determined necessary by the city engineer;

D. Telecommunication pedestals and other equivalent telecommunication facilities;

E. Temporary aerial utility services for construction that will be removed immediately upon completion of construction; and

F. A franchisee is expanding its existing aerial system as a secondary tenant on an existing aerial system not related to a new private development project where the undergrounding of the expansion will not eliminate the existing aerial system.

XX.XX.030 Definitions.

The definitions of this chapter are specific to this chapter.

A. "Aerial" means those utility facilities which currently exist on poles, or which may be installed on poles within city rights-of-way or city utility easements at a future date with the city engineer's approval.

B. "Applicant" means the owner or owners of record of the property pursuing the development or redevelopment of property within the jurisdiction of the city.

C. "Conduit" means any pipeline, duct, or protective enclosure used for electrical conductors, coaxial cable, multiconductor cable or fiber optic cable, telecommunications trunkline or used for conveyance of gas, petroleum or other commercial products.

D. "Conversion" means a project being performed by the city to convert an area of existing aerial utility facilities to underground facilities.

E. "Conversion area" means the area that has been identified by the city in relation to a city project that will be requiring the aerial utility systems to be undergrounded, including all affected utility customers.

F. "Electric utility" means any utility engaged in the business of furnishing electric energy to the public and includes electric companies as defined by RCW [80.04.010](#) and public utility districts.

G. "Permanent structure" means any commercial, industrial or residential structure that is greater than 120 square feet and is on a fixed foundation including but not limited to uses such as offices, businesses, warehouses, homes, garages, barns and storage buildings.

H. "Power distribution facilities" means those electrical utility facilities of less than 15,000 volts that provide direct service to customers and are not considered transmission systems.

I. "Service connection" means utility facilities extending from a distribution system and terminating on private property to serve a customer or subscriber.

J. "Telecommunications" is the transmission of information by wire, optical cable or other similar means, including but not limited to telephone, cable television, and data transmission services. As used in this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds or any other symbols.

K. "Telecommunication utility" means any utility engaged in the business of affording telecommunications services to the public in all or part of the conversion area.

L. "Temporary structure" means a structure that is 120 square feet or less in size, mobile in nature and will be removed from the site within the time frame allowed for temporary aerial services.

M. "Utilities" means those companies providing electric power or telecommunications services within the corporate boundaries of the city of Enumclaw, Washington.

N. "Utility facility" means any and all utility-owned or operated conduits, wires, cables, fiber optics, or other devices used to transmit, transport or distribute electric power or telecommunications services, and any appurtenances thereto.

XX.XX.040 Temporary aerial services.

The city engineer may allow utility service connections for permanent structures to be temporarily located aerially for up to 180 calendar days. Extensions beyond the 180 calendar days for temporary aerial service connections for permanent structures may be authorized by the public works director; such authorizations may include financial securities or other instruments to ensure the conversion of the aerial system to an underground system by the end of the extension period authorized.

XX.XX.050 Requirements – New utility distribution facilities.

All new utility distribution facilities shall be underground. The installation of all new utility facilities for subdivisions shall also meet the requirements identified in Chapter 17.16.

XX.XX.060 Requirements – Existing utility aerial distribution facilities.

A. All existing utility aerial distribution facilities shall be undergrounded in connection with new private development unless one of the following criteria is met:

1. The city engineer determines that undergrounding of the portion of the existing aerial facilities along the development's street frontage would require undergrounding portions of the aerial distribution facilities extending beyond the development's street frontage unless an additional extension of no more than 50 feet of the underground system is needed on either end of the street frontage to connect to logical points of the existing utility system; or
2. The development is the conversion of one single-family residence to a commercial use; or
- ~~3. The development is a new commercial development on a lot that is 11,000 square feet or smaller in area and located in the RO, CN, C1, or C3 zone; or~~
3. The development is wholly interior improvements to an existing building; or
4. The development is an addition, alteration or repair of an existing building structure, where the building permit valuation per EMC 16.06.018 is less than 50 percent of either:
 - a. The assessed value of the existing building structure(s) on the subject property as determined by the most current property assessment by the county assessor of the county in which the property is located; or
 - b. The value of the existing building structure(s) as determined by an appraisal performed by a Member Appraisal Institute (MAI) appraiser certified by the state of Washington, which appraisal shall be paid for and provided by the property owner.

B. Repairs to an existing utility aerial service facility may be made aerially.

C. For city projects, the city council shall determine whether the undergrounding of existing aerial utility distribution facilities shall be required in association with the city project.

XX.XX.070 Requirements – New utility service connections.

All new utility service connections shall be underground unless one of the following criteria is met:

A. The existing distribution system and any service connections serving the customer or subscriber are aerial and the building, structure, or facility to be served is new construction, an addition, alteration or repair where the building permit valuation per EMC 16.06.018 is under \$20,000 in value.

B. The installation of a new or replacement service connection in an area where the existing utility distribution facility and/or existing service connection is aerial and meeting at least one of the following criteria:

1. The construction of a single-family residence on an existing platted lot; or
2. The conversion of one single-family residence to a commercial use as defined in Chapter 15.04 EMC "Development activity"; or
- ~~3. A new commercial development on a lot that is 11,000 square feet or smaller in area and located in the RO, CN, C1, or C3 zone; or~~
3. Wholly interior improvements made to an existing building; or
4. For existing building structures, where the building permit valuation per EMC 16.06.018 of an addition, alteration, or repair to the existing structure is less than 50 percent of either:
 - a. The assessed value of the existing building structure(s) on the subject property as determined by the most current property assessment by the county assessor of the county in which the property is located; or
 - b. The value of the existing building structure(s) as determined by an appraisal performed by a Member Appraisal Institute (MAI) appraiser certified by the state of Washington, which appraisal shall be paid for and provided by the property owner.

XX.XXA.080 Permitting.

All permits for the installation of aerial and underground utility facilities within existing city rights-of-way or easements shall be processed and reviewed under EMC Chapter 12.18, Right-of-way construction permit.

XX.XX.090 Joint trenches.

Where several underground utilities are planned or required in the same alignment, the utilities shall use a joint trench for such facilities unless demonstrated to the satisfaction of the city engineer that a joint trench is not feasible.

XX.XX.110 Financial responsibilities – Private development.

For private development, the cost of constructing new underground utility facilities, or relocating existing aerial facilities underground, shall be borne by the serving utilities, the owners of the real property to be served or others requesting such underground services in accordance with the applicable filed tariffs or the rules and regulations or the published policies of the respective utilities furnishing such service or as may be contractually agreed upon between the utility and such owner or applicant.

In addition, all such conversion of electric and telecommunication utility facilities to underground facilities may be undertaken by local improvement district or as otherwise permitted by law and as further authorized by RCW [35.96.030](#) and [35.96.040](#).

XX.XX.120 Deferral of underground distribution facilities.

A. The city engineer may grant a deferral for some or all of the undergrounding of utility distribution facilities otherwise required pursuant to this chapter following the procedures identified in EMC XX.XX.020(B).

1. There is a pending city six-year TIP project or an adjacent developer planned project which would affect the proposed area of undergrounding of the existing aerial facilities; or
 2. A franchisee is expanding its existing aerial system as a secondary tenant on an existing aerial system for the purpose of serving a new private development where the undergrounding of the expansion will not eliminate the existing aerial system; or
 3. All of the following conditions are met:
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a. There are other properties abutting or across the street from the subject property that have aerial utility facilities; and

b. The establishment or continuation of aerial utility facilities for the period of the deferral will not adversely affect or delay other properties that may have to provide or convert to undergrounding utility improvements within the public right-of-way; and

c. There are technological difficulties associated with converting to or providing undergrounding utility improvements for the subject property as demonstrated to the satisfaction of the city engineer.

B. For those improvements either deferred or for which a fee in lieu is paid, the applicant will be required to:

1. Execute and record an agreement not to protest the formation of a future local improvement district (LID) formed for the construction of those improvements; and

2. Execute and record an agreement to defer the completion of the required improvements by the applicant until the city determines the improvements are needed; or

3. Pay a fee in lieu of improvements based on the city's estimated costs to complete the required improvements. The city will have the discretion to require payment of a fee in lieu of improvements instead of the execution and recording of deferral agreements when the street improvements are part of an identified project in the city's six-year transportation improvement program or other documentation, and the funds can immediately be used for design or construction efforts, or to leverage additional grant funding for the project; or

4. Execute a combination of a deferral and payment of a fee in lieu of improvements as long as the applicant's combined obligation does not exceed the extent of the total requirements for those improvements.

C. The applicant has the right under state law to protest the applicant's assessment for any LID at the time of the final assessment roll public hearing.

D. For those improvements that are deferred, the design standards and construction standards in place at the time of improvements will be applied.

E. An applicant whose request has been denied may appeal the denial following the procedure as identified in EMC 15.20.070, Appeals.

XX.XX.130 City project process and requirements.

A. City Responsibilities.

1. When service from underground electric and telecommunication utility facilities becomes available in all or part of a conversion area, the city engineer will issue a directive to the owners of all structures or improvements with service connections to the existing or temporary overhead utility facilities in the area by means of mailing a certified notice stating that service from the underground utility facilities is available and notifying the property owner of the owner's responsibilities.

B. Property Owner's Responsibilities.

1. To facilitate completion of the city's project, all electric and telecommunication service connections from the existing aerial facilities within the area to any structure or improvement must be decommissioned, disconnected and removed within 90 calendar days after the date of mailing. After existing aerial utility facilities identified by the City's notice in section A have been decommissioned, disconnected and removed, the Property Owner must:

- a. Convert the service connections from the aerial system to the underground system within 90 calendar days after the date of the receipt of the notice of the City will order the electric and telecommunications utilities to disconnect and remove the service connections. If the owner has filed written objections to this disconnection and removal with the city clerk within 30 calendar days after the date of mailing, the City will not order disconnection and removal until after the appeal hearing on those objections; or
 - b. Notify the city engineer in writing within 30 calendar days after the date of receipt of the notice provided under Section A that the Property Owner wants to discontinue utility service; or
 - c. If the city engineer determines it is in the best interest of the public and the City's infrastructure system for the City to complete the service connection from the underground system to the existing aerial service point of connection and the Property Owner desires the City to do so, the Property Owner will enter into an agreement with
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the City within 90 calendar days after the date of the mailing to provide Property access to complete the conversion.

C. *Financial Responsibilities.*

1. For city projects, the cost of relocating existing utility aerial distribution facilities will be borne by the serving utility and the city in accordance with the filed tariffs or franchise agreement. If there is no filed tariff or franchise agreement, the cost of the relocation of existing aerial distribution facilities will be borne by the serving utility.
2. For city projects, the undergrounding of the service connections for real property served by the aerial electric or telecommunication utility facilities that are being relocated underground will be at the owner(s)'s expense, including:
 - a. Decommission, disconnect, and remove the service connections from those utility facilities to any structures or improvements located on the property.
 - b. Either install underground service connections to those structures/improvements on the property or, on approval of the city engineer, discontinue utility service to one or more of the structures/improvements on the property.

Services that are being connection by the city per EMC XX.XX.130(B)(1)(c) are exempt from this requirement and the City will be financially responsible for those connection costs.

3. All conversion of utility facilities to underground facilities may be undertaken by local improvement district or as otherwise permitted by law and as further authorized by RCW [35.96.030](#) and [35.96.040](#).

D. *Appeal Procedures.*

1. A Property Owner may appeal to the public works director the disconnection and removal of an aerial service connection by filing a written objection with the city clerk within 20 working days after the date of the mailing of the notice set forth in subsection A of this section. Failure to file a timely written appeal will constitute a waiver of the owner's right to object to such disconnection and removal. The public works director will have 15 working days to review the appeal, decide whether to uphold or modify the city engineer's decision, and notify the property owner of such decision.
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2. All appeals of the public works director's decision must be filed in writing with the public works director within 10 working days of the public works director's decision. Appeals must specify the error of law or fact, or new evidence which could not have been reasonably available at the time of the public works director's decision, which shall constitute the basis of the complaint.

3. Appeals will be heard by the city's hearing examiner pursuant to EMC chapter 15.13. Decisions of the hearing examiner will be based on whether the decision being appealed was consistent with application state law and city codes.

4. Upon receipt of a timely written appeal, the hearing examiner will review the materials submitted and prepare findings of fact. The hearing examiner decision will be final.

XX.XX.140 Local improvement regulations apply.

Unless otherwise provided for in RCW [35.96.010](#) et seq., all the general provisions related to local improvements of cities and towns shall likewise apply to local improvements for the conversion of aerial electric and telecommunication facilities to underground facilities within the city limits.

XX.XX.150 Authority.

The city engineer or designee shall be responsible for the application of this chapter related to public rights-of-way.

The building official or designee shall be responsible for the application of this chapter related to real property.

XX.XXA.160 Violation – Penalty.

Any violation of this chapter shall be enforced pursuant to the provisions of EMC chapter 15.

DRAFT FINDINGS AND CONCLUSIONS:

Title 15 outlines the findings required to approve comprehensive plan amendments/code amendments. EMC section 15.32.038 outlines three general requirements and six consistency statements to be used when evaluating the merits of the proposals.

1. The amendment will not result in development that will adversely affect the public health, safety and general welfare.

Staff response: Staff and the Planning Commission find that the proposed amendments to the Comprehensive Plan and municipal code will not adversely affect the public health, safety and general welfare. Undergrounding utilities will improve service during extreme weather events as well as improve the aesthetic of the city.

2. The amendment is based upon new information that was not available at the time of adoption of the comprehensive plan, or that circumstances have changed since the adoption of the plan that warrant an amendment to the plan.

Staff response: Staff and the Planning Commission find that circumstances have changed since the adoption of the Comprehensive Plan. Increased rates of residential development within the city has prompted the need to review and revise the Comprehensive Plan and municipal code regarding undergrounding utilities. The increase has created a desire to improve electrical service to new and existing residences.

3. The amendment[s] is consistent with other goals and policies of the comprehensive plan, and that the amendment will maintain concurrency between the land use, transportation, and capital facilities element of the plan.

Staff response: Staff and the Planning Commission find that the proposal is consistent with the goals and policies within the Comprehensive Plan. The proposed policy will be adopted as part of the yearly comprehensive plan amendments. The proposed policy states:

2.5 Require utility lines to be located underground wherever practicable.

15.38.038(B):

1. The amendment[s] should address an existing, significant need for a public necessity or convenience.

Staff response: Staff and the Planning Commission find that proposal addresses the need improved electrical transmission service. The improvement will also improve aesthetics within the city by placing overhead power lines underground.

2. The amendment[s] should be in the public's best interest.

Staff response: Staff and the Planning Commission find the amendment is in the public's best interest. The proposed policy and ordinance will improve service to existing and new homes and businesses within the city.

3. The amendment should be compatible with all adjacent comprehensive plan and zoning map designations.

Staff response: The amendment is not a land use or zoning map amendment and is therefore not applicable.

4. The amendment should be compatible with all elements of the comprehensive plan and zoning code.

Staff response: Staff and the Planning Commission find that the amendment is compatible with the city's comprehensive plan and zoning code.

5. The amendment[s] should be compatible with and should not adversely impact related ordinances, regulations and development standards.

Staff response: Staff and the Planning Commission find that the amendment will not adversely impact any existing ordinances, regulations or conflict with existing development standards. The proposal is in the public benefit.

6. The amendment should not adversely impact the health, safety and general welfare of the public; the city design; development interests; neighborhoods; environmentally sensitive areas; and historic areas.

Staff response: Staff and the Planning Commission find that the proposed amendment should not adversely impact the health, safety and general welfare of the public; the city design; development interests; neighborhoods; environmentally sensitive or historic areas. The proposed policy and ordinance will be an improvements to existing and new neighborhoods.