

**CITY OF LYNNWOOD
ORDINANCE NO. 2630**

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON,
RELATING TO UNDEGROUNDING OF OVERHEAD ELECTRIC
WIRES IN THE CITY CENTER SUB-AREA, AND ADOPTING A
NEW CHAPTER 12.20 OF THE LYNNWOOD MUNICIPAL CODE.

WHEREAS, overhead utility wires in commercial and business areas are a possible source of danger to persons and vehicles; and

WHEREAS, the public necessity, convenience, safety and general welfare require that overhead utility wires in the City Center sub-area be placed underground; and

WHEREAS, the Power, Communications and Gas section of the City Center sub-area plan states that “to enhance the streetscape, all overhead utilities should be moved underground,” and City Center Capital Facilities Policy 8 of the City Center sub-area plan directs the City to “underground all overhead utilities” and to “where possible combine city utilities in a common trench to preserve ROW for other uses”; and

WHEREAS, the City Council desires to implement the City Center sub-area statement and policy stated above by requiring the placement of electrical wires underground in certain circumstances;

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF LYNNWOOD,
WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. A new chapter 12.20 is added to the Lynnwood Municipal Code to read as follows:

12.20.010 Purpose and scope

Overhead wires carrying electrical energy, including but not limited to telephone, cable television and electrical service wires, are a source of possible danger to persons using streets in high density urban areas, including but not limited to the streets of the City Center sub-area. Therefore, public necessity, convenience, safety and general welfare require that all such overhead wires be relocated underground as soon as possible in accordance with the requirements of this chapter, and that all new electric wires be installed underground.

12.20.020 Undergrounding requirement.

For right-of-way in the City Center use districts as established and described in LMC 21.60.200 (“City Center sub-area”):

- A. All new electric wires shall be placed underground.
- B. Upon development or redevelopment of real property in the City Center sub-area, all existing overhead wires in the right-of-way abutting the real property shall be relocated underground.
- C. In conjunction with a street widening project that requires reinstallation of supporting overhead wires, all existing overhead wires shall be relocated underground.

12.20.030 Responsibility for cost.

For a City initiated and sponsored street-widening project pursuant to LMC 12.20.020.C, the City shall be responsible for the cost and expense of placing overhead wires underground. For a combined City initiated and sponsored and property owner initiated and sponsored street-widening project pursuant to LMC 12.20.020.C, the City and the property owner shall be responsible for their respective cost and expense of placing overhead wires underground, as agreed to between the City and the property owner. For all other undergrounding of electric wires pursuant to LMC 12.20.020, the owners of such wires, to the extent authorized by state statute and regulations, and the owners of the real property abutting the right-of-way shall be responsible for the cost and expense of placing such wires underground, as agreed to between the owners of such wires and the owners of such real property. The placement of overhead wires underground shall include but not be limited to the installation of electric wires, the removal of poles and the restoring of any road or sidewalk surface.

12.20.040 Delay of installation.

The Public Works Director may authorize a delay in the placement of electric wires underground where such placement, in the opinion of the Public Works Director, could in the foreseeable future be accomplished more efficiently and cost effectively in conjunction with development of contiguous real property or as part of a City financing mechanism, including but not limited to a local improvement district or a City bond issue. In such event, the persons responsible for the cost and expense of such placement shall enter into an agreement with the City regarding the delay in performance.

12.20.050 Design standards; as-built plans; maintenance.

All underground electric wires shall be installed in accordance with applicable federal, state and city standards, and pursuant to a schedule approved by the Public Works Director. Where possible, the underground electric wires shall be included in a common trench with other utilities in order to preserve the remainder of the right-of-way for other uses. As-built, project drawings in a form and scale approved by the Public Works Director shall be submitted in duplicate to the Public Works Director within thirty (30) days of the completion of the underground project. Following installation, the person who placed the electric wires underground shall be responsible for maintaining and replacing such wires in accordance with this Code or applicable federal, state and city laws and regulations.

12.20.060 Permits.

The installation, removal or replacement of electric wires underground shall require a permit pursuant to Chapter 12.04 LMC. Except for street widening projects in which the City is a participant, the property owner and the electric wire owner shall be responsible for obtaining any applicable federal and state permits, and any additional city permits, for the installation, maintenance, removal or replacement of electric wires underground.

12.20.070 Definitions.

The following terms shall have the following meanings in this chapter:

“Development” means:

1. Subdivisions, short subdivisions, planned unit developments, binding site plans and design review approvals; and
2. Development, use and mitigation of real property pursuant to a development agreement authorized by Chapter 1.37 LMC.

“Electric wires” means wires used for the carrying and distribution of electrical energy, including but not limited to telephone, telegraph, cable television and electrical power.

“Overhead wires” means electric wires placed above the ground, including but not limited to electric wires hung on poles.

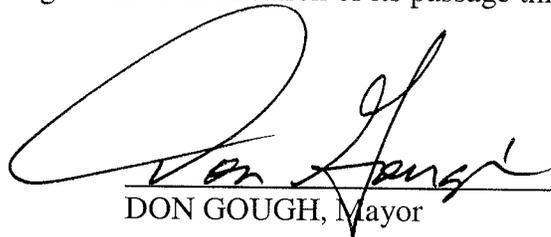
12.20.080 Existing city franchises not affected.

This chapter shall not affect or waive any right or obligation of a City franchise for use of the City right-of-way, and shall be applied consistent with any applicable tariffs and regulations of the Washington Utilities and Transportation Commission. If a provision of this chapter conflicts with a provision of a franchise agreement or ordinance, the provision of the franchise agreement or ordinance shall control.

Section 2. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

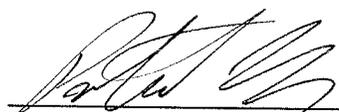
PASSED THIS 10th day of July, 2006, and signed in authentication of its passage this ~~14th~~^{14th*} day of July, 2006.



DON GOUGH, Mayor

ATTEST:

APPROVED AS TO FORM:



PATRICK DUGAN
Interim Finance Director



MICHAEL P. RUARK
City Attorney

* CORRECTED DATE OF EXECUTION