

ORDINANCE NO. 966

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, ADDING A NEW SECTION TO SHORELINE MUNICIPAL CODE CHAPTER 13.20 ELECTRICAL AND COMMUNICATION FACILITIES TO ESTABLISH A PROCESS FOR DEFERRING INSTALLATION OF UNDERGROUND ELECTRICAL FACILITIES.

WHEREAS, Shoreline Municipal Code (SMC) Section 20.70.340 requires new development to install electrical facilities underground so as to, among other things, promote the general welfare by decreasing dangerous conflicts with overhead electrical lines, improving ADA access, and achieving a more aesthetically pleasing community; and

WHEREAS, SMC Chapter 13.20 Electrical and Communication Facilities provides for the relocation of overhead facilities due to a City capital project so as to remove potential hazards and blockages from the right-of-way, thus increasing accessibility and benefiting the overall safety and mobility of the motoring public, passengers and pedestrians and also, to promote the general welfare in achieving a more aesthetically pleasing community, improving property values, and decreasing the vulnerability of service delivery due to the effects of natural disasters and storm events; and

WHEREAS, electrical services for the City of Shoreline are currently provided by the City of Seattle, through Seattle City Light (SCL); and

WHEREAS, on February 28, 2022, the City Council discussed challenges faced by Sound Transit's Lynnwood Link Extension Project and private development projects in meeting the City's underground electrification code requirements due to SCL's delay in its 5th Avenue Duct Bank Project (aka capital project), which was to have been in place to serve the area and is necessary in order to replace existing infrastructure that has exceeded its useful life; and

WHEREAS, public and private projects both need temporary construction 3-phase power, to construct their large projects, and interim operational power to energize their projects for occupancy until an electrical utility provider's capital project is complete and underground power is available; and

WHEREAS, on March 7, 2022, the City Council adopted Ordinance No. 958 which allows for temporary electrical service for construction in the MUR-70 zone by providing an additional exception to the requirement in SMC Chapter 13.20 that all new overhead electrical facilities or extensions, additions or rebuilds of existing overhead facilities must be put underground; and

WHEREAS, the proposed amendments allow interim overhead power within designated areas of the City upon the satisfaction of certain conditions, specifically a requirement for the property owner to enter into a Deferred Underground Facilities Agreement with the City; and

WHEREAS, the proposed amendments also require the electrical utility provider to not only coordinate and perform work on the interim overhead facilities but also to ensure removal of

those facilities once its capital project has been completed; and

WHEREAS, on May 23, 2022, the City Council held a study session on the proposed amendments; and

WHEREAS, the proposed amendments will establish a new SMC Section 13.20.060, which section was previously repealed by Ordinance No. 594; and

WHEREAS, the City Council has considered all relevant information in the public record and all public comments, written and oral, and finds that the proposed amendments to SMC Chapter 13.20 bear a substantial relationship to, and are necessary for, the public health, safety, and general welfare of the City and its residents; and

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

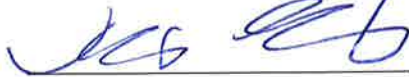
Section 1. Amendment – Chapter 13.20 Electrical and Communication Facilities. SMC Chapter 13.20 Electrical and Communication Facilities is amended as set forth in Exhibit A to this Ordinance.

Section 2. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and/or the Code Reviser are authorized to make necessary corrections to this Ordinance, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

Section 3. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to any person or situation.


Section 4. Publication and Effective Date. A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect five (5) days after publication.

PASSED BY THE CITY COUNCIL ON JUNE 6, 2022.


Mayor Keith Scully

ATTEST:

APPROVED AS TO FORM:


Jessica Simulcik Smith
City Clerk


Julie Ainsworth-Taylor, Assistant City Attorney, on
behalf of Margaret King, City Attorney

ORIGINAL

Date of Publication: June 9, 2022
Effective Date: June 14, 2022

SMC 13.20.060 - Deferred Underground Facilities

- A. The provision of electrical service required to be undergrounded by this chapter and SMC 20.70.430 may be located overhead on an interim basis pursuant to the execution of a Deferred Underground Facilities Agreement (DUFA) in accordance with this section.
- B. A DUFA provides the ability to connect a development to overhead electrical facilities for a limited period of time in certain designated areas of the City. Such facilities would provide interim electrical service to the development in situations where an electrical utility provider's pending underground capital project precludes the provision of permanent underground electrical service to the development site until the capital project is operational. Operational means that the electrical utility provider's capital project is extended to a location that provides access to the development site as defined in the DUFA.
- C. A DUFA is allowed when the electrical utility provider's adopted capital improvement plan has identified a project that will provide operational underground electrical facilities within the right-of-way that will provide for an underground electrical service connection to the development within five (5) consecutive years of: (1) the date of the issuance of the development permit requiring underground installation; or (2) the date of the adoption of this subsection for developments with permits already issued.
- D. The City may enter into a DUFA with a property owner, herein referred to as the Applicant, if the following terms and conditions are met:
 - 1. All or a portion of the development site is located within an area designated by the City as eligible for a DUFA and the development site is anticipated to be served by the pending capital project.
 - 2. The Applicant executes and records a DUFA that shall require and include the following obligations and terms:
 - a. Design and construction of underground electrical utility infrastructure for a permanent underground service connection to the electrical utility provider's pending capital project as part of the Applicant's development project.
 - b. If the utility provider does not automatically connect the development project's underground electrical utility infrastructure to the completed capital project, the Applicant shall submit permit application(s) to the utility provider for a permanent underground service connection to the electrical utility provider's infrastructure within sixty (60) calendar days from the date the electrical utility provider provides written notice that the underground electrical facilities are installed.
 - c. The DUFA shall bind the Applicant and all successors and assigns.
 - d. The City shall allow for one extension of the term of the DUFA for up to two years if, through no fault of the Applicant, the electrical utility provider's pending capital project cannot become operational within the five (5) year time frame. If the electrical utility provider's pending capital project cannot become operational within the extended period of time, the City may, in its sole discretion, enter into an additional extension(s) of the DUFA.
- E. Except as provided herein, the DUFA shall be recorded, at the Applicant's sole cost and expense, in the property records of King County prior to issuance of the development's

- permit(s). For development projects that have issued permits at the time of adoption of this subsection, the DUFA shall be recorded prior to issuance of the first certificate of occupancy, either temporary or final, or finalization of the permit, whichever is applicable to the project type.
- F. The DUFA shall not relieve the Applicant of the requirement to install all electrical service infrastructure underground on the development site and/or within the adjacent right-of-way, to the maximum extent possible, to ensure minimal disruption at the time of permanent underground service connection, as provided in Chapter 13.20 SMC, SMC 20.70.430, and the Engineering Development Manual (EDM) adopted pursuant to SMC 12.10.015.
- G. The Director of Public Works and the Director of Planning and Community Development, or designees, shall designate areas of the City where a DUFA may be permitted. A map clearly delineating the boundaries of the designated areas will be posted in the GIS Map portal on the City's website and incorporated into the EDM.
- H. The Director of Public Works may approve a DUFA in a form acceptable to the City Attorney.
- I. The electrical utility provider shall:
1. Ensure that the interim overhead electrical facilities installed in the right-of-way be designed and constructed so that minimum clearance requirements applicable to the electrical facilities do not preclude future development of the site up to the minimum setbacks required by Chapter 20.50 SMC, or other applicable SMC or EDM provisions, without design departures.
 2. Upon completion of the electrical utility provider's pending capital underground project, the interim overhead electrical facilities shall be deemed abandoned and shall be removed from the right-of-way at the electrical utility provider's sole expense, provided that the City may grant an exemption to the removal of the interim overhead facilities if those facilities are necessary to serve existing development. The electrical utility provider shall remove their interim overhead electrical wires and other electrical fixtures and equipment from the interim electrical utility poles within 60 calendar days of the completion of their capital underground project. All non-electrical facility attachers shall then remove their facilities from the interim electrical utility poles within 180 calendar days of the electrical utility provider's removal of their electrical wires and other electrical fixtures and equipment. The electrical utility provider shall then remove their interim electrical utility poles within 60 calendar days of the final non-electrical facility attacher removing their facilities.
- J. If the electrical utility provider fails to comply with subsection I, the City may engage in enforcement provisions against such utility provider as authorized by State Law, the SMC or the City's Electrical Utility System Franchise Agreement, as may be applicable. Nothing in this provision shall preclude the City from pursuing additional or other legal remedies.