

City of Salem

In the year Two Thousand and Sixteen

An Ordinance to amend the Ordinance relative to **Chapter 12, Building, Electricity and Plumbing Regulations, Article III. Electricity**

Be it ordained by the City Council of the City of Salem, as follows:

DIVISION 1. – GENERALLY

Section 12-90. – Inspection of Poles is hereby amended by deleting the section:

“Each business entity shall thoroughly inspect the condition of all its poles or posts carrying electric or other wires upon or over the city streets in order to ascertain that they are free from decay or any injury rendering them dangerous.”

And replacing it with:

“Each business entity shall thoroughly inspect the condition of all its poles or posts carrying electric or other wires or any telecommunications attachments upon or over the city streets in order to ascertain that they are free from decay or any injury rendering them dangerous.”

A new section is hereby added at the end of Division 1 as follows:

Sec. 12-91. - Telecommunications attachments to poles.

“Attachments for telecommunications purposes to all poles within the public right of way may be permitted provided a valid grant of location has been issued for such attachments by the city council. Such attachments shall include any device, apparatus, appliance or equipment, including, but not limited to, any conduits, wires, fiber, cable or associated facilities for purposes of producing, receiving, amplifying or distributing telecommunications.”

DIVISION 2. - CITY ELECTRICIAN

Section 12-121. Examination and report of application for placing wires or poles is hereby amended by deleting the section:

“The city electrician shall, when required by the mayor, examine every application for the placing of any wire, or the erection or construction of poles or posts for the support thereof in, under or over any street, way or public place and shall report to him all facts which, in his opinion, bear upon the question of granting or refusing such application.”

And replacing it with:

“The city electrician shall, when required by the mayor, examine every application for the placing of any wire, telecommunications attachment or the erection or construction of poles or posts for the support thereof in, under or over any street, way or public place and shall report to the mayor all facts which, in his opinion, bear upon the question of granting or refusing such application.

With respect to telecommunications attachments and any requests for new poles in support thereof, all applications shall include:

- a. Description of type of service to be provided; a list of all posts, poles or other supports of wires and location of proposed conduits and manholes in relation to existing underground facilities;
- b. List of abutters' names and addresses and proof of notice to same;
- c. Drawings, dimensioned and to scale of the proposed attachment as installed on an existing street light or utility pole or the same with respect to proposed new “dummy” poles or enhancements of existing City-owned poles;
- d. Detailed description of the types of aerial and underground facilities that the applicant intends to install;
- e. Detailed route maps or plans showing the location of facilities to be installed within the rights-of-way, prepared by a professional engineer registered in the Commonwealth;
- f. Construction schedule and maintenance plan;
- g. Equipment specifications and radio frequency emission calculations for the location proposed;
- h. The specific trees, structures, improvements, facilities and obstructions, if any, that the applicant proposes to temporarily or permanently remove or relocate and plans to remediate the same; and

- i. Executed pole attachment agreement. If applicant intends to seek pole attachments on City-owned poles or street lights, affirmation of intent to enter an agreement with the City and abide by the conditions set forth therein.”

Sec. 12-122. - Establishing and locating poles; attachment of wires; compliance with plans
is hereby amended by deleting the following section:

“All work establishing and locating any poles or the attachment of any wires to such poles in the public right of way by any order or permit of the city council shall be under the direction of the city electrician, whose duty shall be to see that all such poles are located and wires are attached according to the plans submitted as required by law.”

And replacing it with:

“All work establishing and locating any poles or the attachment of any wires or telecommunications attachments to such poles in the public right of way by any order or permit of the city council shall be under the direction of the city electrician, whose duty shall be to see that all such poles are located and any wires, or telecommunications equipment are attached according to the plans submitted as required by law.

All requests to the city council for grants of location for telecommunications attachments to poles within the public right of way shall be first reviewed by the city electrician in accordance with Section 12-121 and with any reasonable guidelines he may establish. The city electrician shall consult with the legal, planning, engineering and information technology departments within the city prior to making a recommendation to the council as to whether the grant of location should be ordered and what conditions should apply.

No location for any telecommunications attachment within the public right of way shall be granted or, if granted, shall be valid until the applicant applying therefor shall have executed a license agreement in writing in a form satisfactory to the city solicitor and shall have filed such agreement in the office of the city clerk. Such agreement shall be for the nonexclusive use of the right of way and shall establish the terms of the grant including, but not limited to, the following:

(1)

Additional Capacity Reserved for City. Whenever installing a telecommunications attachment or associated infrastructure, above or below ground, capacity shall be set aside for the city’s exclusive use. Such capacity shall include, but not be limited to, conduit, pole space, pole attachment, fiber capacity, or any such combinations. The city electrician or his designee shall be allowed access to such conduits at all times, equal in all respects to those of any company so authorized;

(2)

Evidence of Pole Attachment Agreement. All grants of location for telecommunications attachments shall be accompanied by evidence of a valid pole attachment agreement with the pole owner. Where the request entails attachment to a city-owned pole or establishment of a new pole, such pole attachment agreement shall be with the city in such form as approved by the city solicitor.

(3)

Indemnification Provision. Such company will indemnify and save harmless the city against all damages, costs and expenses whatsoever to which the city may be subjected in consequence of the acts or negligence of such company, its agents or servants or in any manner arising from the rights or privileges granted it by the city.

(4)

Bond Requirement. Such company shall, before any installation of any attachment commences or a street is disturbed for the laying of its wires or conduits, execute a bond with a surety to be approved in writing by the city solicitor and filed in the office of the city clerk.

(5)

Street surface restoration. When an opening is made in a street for any purpose related to the telecommunications attachment, the portion of the street so opened shall be restored to a condition satisfactory to the director of public services and shall be maintained in such condition for one year thereafter. If not so restored and maintained by the company performing the work, the director of public services shall cause the street to be restored and maintained at the expense of the person responsible for the opening.”

Sec. 12-123. – Maps is hereby amended to delete the following section:

“The telephone and electric companies shall make available, upon request of the city electrician, a map of the city showing the location of every cable and wire for which they are responsible in, over or under the streets or public ways and of all places where electricity to be transmitted by any such cable or wire is manufactured or produced.”

And replacing it with:

“The telephone, telecommunications, and electric companies shall make available, upon request of the city electrician, a map of the city showing the location of every cable, wire, or telecommunications attachment for which they are responsible in, over or under the streets or public ways and of all places where electricity to be transmitted by any such cable or wire is manufactured or produced.”

Sec. 12-125. - Care and management of city-owned wires, poles and electrical equipment is hereby amended to delete the following section:

“The city electrician shall have the care and management of the erection and maintenance of all wires owned by the city, including the fire alarm, telegraph and police electric signal and telephone systems; the apparatus, machinery and other property connected therewith; and the poles and other supports erected or owned by the city. The city electrician shall set up or supervise the erection of all the wires, posts, supports, dynamos, machinery and other electrical appliances required by the city in all its departments and see that such are maintained and kept in good order and condition.”

And replacing it with:

“The city electrician shall have the care and management of the erection and maintenance of all wires owned by the city, including the fire alarm, telegraph and police electric signal and telephone systems; the apparatus, machinery and other property connected therewith; and the poles and other supports erected or owned by the city. Consistent with Sections 12-121 and 12-122, the city electrician shall review all requests to place telecommunications attachments on city-owned poles. The city electrician shall set up or supervise the erection of all the wires, posts, supports, dynamos, machinery and other electrical appliances required by the city in all its departments and see that such are maintained and kept in good order and condition.

The city electrician, with the approval of the mayor, shall set reasonable rental fees for telecommunication attachments to city-owned poles.”

Sec. 12-135. - Notice of unsafe conductors or apparatus; refusal of owner to remedy conditions is hereby amended by deleting the following sections:

“(a)

The city electrician shall notify the person owning or operating any cable, or wire referred to in section 12-123 whenever the insulations, supports or appliances are unsuitable or unsafe or the tags or marks thereof are insufficient or illegible or that any cable or wire has been abandoned for use.

(b)

If the owner does not, within ten days after such notification, provide suitable and safe insulations, supports, appliances, tags or marks or if the owner refuses or neglects to remove such abandoned wire, or cable, as the case may be, the city electrician shall, at the expense of the city, remedy such unsafe or insufficient supports and appliances and may remove such wires, or cable that are not properly insulated or not provided with a tag or mark or that have been abandoned. Such expense incurred by the city shall be repaid by the owner of such cable or wire.”

And replacing them with:

“(a)

The city electrician shall notify the person owning or operating any cable, attachment, or wire referred to in section 12-123 whenever the attachments, insulations, supports or appliances are unsuitable or unsafe or the tags or marks thereof are insufficient or illegible or that any cable, attachment, or wire has been abandoned for use.

(b)

If the owner does not, within ten days after such notification, provide suitable and safe attachments, insulations, supports, appliances, tags or marks or if the owner refuses or neglects to remove such abandoned wire, attachment, or cable, as the case may be, the city electrician shall, at the expense of the city, remedy such unsafe or insufficient attachments, supports and appliances and may remove such wires, attachments, or cable that are not properly insulated or not provided with a tag or mark or that have been abandoned. Such expense incurred by the city shall be repaid by the owner of such attachment, cable or wire.”

DIVISION 3. - FEES AND INSPECTIONS

is hereby amended by adding the following new section:

Sec. 12-170. – Fee for telecommunications attachments in the right of way.

“Applicants seeking a grant of location in association with telecommunications attachments to poles within the right of way shall, at the time of filing, pay a \$500 application fee to cover the costs of the interdepartmental review required by Section 12-122. This fee shall be in addition to any rental payments for telecommunications attachments to poles owned by the city pursuant to Section 12-125.”

DIVISION 4. - UNDERGROUND CONDUITS

Sec. 12-197. - Powers of city council for underground wires, cables, conduits shall be amending by deleting the following section:

“(a)

Except as provided in subsections 12-200(c) and (d), the city council may authorize any telephone, telegraph, electric light, or electric power company to construct and maintain underground conduits, cables and wires for the conduct of the business of such company in such of the city streets as the city council may deem advisable and to construct therein and

maintain the necessary manholes and house connections and to erect and maintain distributing poles at the terminal of such conduits and at suitable distributing points and may give such authority, under such conditions, restrictions and limitations as the city council may impose, as may be expressed in the permit.”

And replacing it with:

“(a)

Except as provided in subsections 12-200(c) and (d), the city council may authorize any telephone, telegraph, electric light, wireless, telecommunication or electric power company to construct and maintain underground conduits, cables and wires for the conduct of the business of such company in such of the city streets as the city council may deem advisable and to construct therein and maintain the necessary manholes and house connections and to erect and maintain distributing poles at the terminal of such conduits and at suitable distributing points and may give such authority, under such conditions, restrictions and limitations as the city council may impose, as may be expressed in the permit.”

Sec. 12-200. - Disturbing surface of street is hereby amended to delete the following section:

“(b) Agreement required. No permit to disturb the surface of the street for any purpose as provided in section 12-197 shall be granted or, if granted, shall be valid until the company applying therefor shall have executed an agreement in writing as provided in this subsection and in a form satisfactory to the city solicitor and shall have filed such agreement in the office of the city clerk. Such agreement shall provide that:

(1)

In every underground conduit constructed by any telephone or telegraph company, sufficient and necessary space shall be reserved and maintained, free of expense, for the use of the fire, police, and other signal wires belonging to the city and used exclusively for municipal purposes and that the city electrician or any person authorized by him shall be allowed access to such conduits at all times, and facilities and privileges in putting in or taking out wires equal in all respects to those of such company;”

And replace it with:

“(b) Agreement required. No permit to disturb the surface of the street for any purpose as provided in section 12-197 shall be granted or, if granted, shall be valid until the company applying therefor shall have executed an agreement in writing as provided in this subsection

and in a form satisfactory to the city solicitor and shall have filed such agreement in the office of the city clerk. Such agreement shall provide that:

(1)

In every underground conduit constructed by any telephone, telegraph, wireless or other telecommunications company, sufficient and necessary space shall be reserved and maintained, free of expense, for the use of the city's fire, police, and information technology departments and other signal wires and fiber belonging to the city and used exclusively for municipal purposes and that the city electrician or any person authorized by him shall be allowed access to such conduits at all times, and facilities and privileges in putting in or taking out wires equal in all respects to those of such company;"

In City Council April 14, 2016

Referred to the Committee on Ordinances, Licenses and Legal Affairs

In City Council April 28, 2016

Remain in Committee

In City Council May 26, 2016

Adopted for first passage

In City Council June 9, 2016

Adopted for second and final passage

Approved by the Mayor on June 14, 2016

ATTEST:

CHERYL A. LAPOINTE
CITY CLERK