ORDINANCE NO. 1650

AN ORDINANCE of the City of Kent, Washington declaring and establishing the City's policy with respect to the underground relocation, installation and conversion of existing and new electric and communication facilities within the City of Kent; Providing certain minimum requirements and procedures relating thereto; requiring connections and disconnections by owners affected thereby and providing penalties for the violation thereof.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KENT

AS FOLLOWS:

Section 1. A. It shall be and it is hereby made the policy of the City of Kent to require compliance with the following orderly program pertaining to the underground relocation of all existing overhead wires carrying any electrical energy, including, but not limited to, telephone, telegraph, cable television and electrical power; and to require the underground installation of all new electrical communication facilities, subject to certain exceptions noted hereafter. It is especially found and determined by the City that the health, safety, especially the safety of the traveling public, and general welfare of the residents of the community require that all such existing overhead facilities, be relocated underground as soon as practicable in accordance with the requirements specified herein and that all new facilities specified herein be installed underground.

B. The purpose of this Ordinance, among others, is to establish minimum requirements and procedures for the under­ground installation and relocation of electrical and communication facilities within the City of Kent.

C. Scope. Subject to the excepted facilities listed in Paragraph D of this section, this Ordinance shall apply to all electric facilities and to all communication facilities, including but not limited to telephone, telegraph and cable television facilities.

D. Excepted facilities from underground requirements. This Ordinance shall not apply to the following facilities:

1. Electric utility sub-stations, pad-mounted trans­formers and switching facilities not located on the public right-of-way where site screening is or will be provided in accordance with Section V, C2.
2. Electric transmission systems of a voltage of 55 kv or more, (including poles and wires) and equivalent communications facilities where the utility providing electrical energy is willing to provide at its expense an underground street lighting circuit including all conductor and conduit to a point on the poles at least forty (40) feet above ground level to serve utility-owned street lighting fixtures to be mounted on the poles at said location.

3. Ornamental street lighting standards.

4. Telephone pedestals and other equivalent communication facilities.

5. Police and fire sirens, or any similar municipal equipment, including traffic control equipment.

6. Temporary services for construction.

Section 2. Cost. The cost and expense of converting existing overhead facilities to underground, or installing new facilities underground, shall be borne by the serving utilities, and/or persons applying for such underground service in accordance with the applicable filed tariffs, franchise, or the published policies of the respective utilities furnishing such service.

Section 3. Underground Requirements.

A. Definitions. The following terms when used in this Ordinance shall have the meanings given below:

1. Rebuilds. A replacement of overhead facilities for a distance of three (3) or more spans (four poles) or five hundred feet (500') exclusive of replacements due to casualty damage.

2. Services. Facilities located on private property and/or for the specific purpose of servicing one customer.

3. Relocations. Removal of existing facilities with subsequent re-installation at an adjacent location, generally necessitated by roadway widening projects, shall constitute a relocation.

B. Services. All new electric or communication services from an overhead or underground facility to service connections of structures shall be installed underground from and after the effective date of this Ordinance. All rebuilt or relocated electric or communication services from an overhead or underground facility to service connections of structures shall be installed underground from and after the effective date of this
Ordnance, excepting those which only involve a change in the overhead service line without a change in the corresponding service entrance facilities.

C. Central Business District.

1. The following requirements apply to all areas of the City of Kent which are outlined on the attached map.

2. All existing overhead electric and communication facilities, with the exceptions previously noted in Section 1D, shall be converted to underground facilities within fifteen (15) years from the effective date of this Ordinance, subject to a ten (10) year extension by the City whereby in the City's judgment, their financial situation prohibits the City from participating to the degree implied by the provisions of this Ordinance.

3. All facilities, including services, extension, rebuilds, relocations, or duplications of existing overhead electric and communication facilities shall be installed underground from and after the effective date of this Ordinance.

4. All areas rezoned for commercial or industrial use after the effective date of this Ordinance shall be converted to underground in the same manner as provided herein in sub-paragraph 2 for existing facilities within fifteen (15) years from the effective date of such rezoning, subject to a ten (10) year extension by the City, provided that the City Council elects to add such rezoned areas to those outlined on the attached map as designated in sub-paragraph 1 above.

D. Other Business, Industrial Areas and Public Facilities.

1. The following requirements apply to all areas zoned by the Comprehensive Zoning Ordinance of the City of Kent.

2. All facilities, including services, extensions, duplications, relocations, or rebuilds of existing overhead electric and communications shall be installed underground from and after the effective
E. Residential Areas.

1. The following requirements apply to all areas zoned by the Comprehensive Zoning Ordinance of the City of Kent as single family and multi-family residential.

2. All facilities including services, extensions, duplications, relocations, or rebuilds of existing overhead electric and communications shall be installed underground from and after the effective date of this Ordinance.

F. Street Lighting. Street lighting facilities or systems conforming to the current standards of the City of Kent Traffic Engineer shall be installed as an integral part of all underground projects.

G. All rights-of-way proposed to be dedicated to the City and/or easements for public facilities shall be subject to the provisions of this Ordinance.

H. The owner or owners of real property abutting an underground project shall be responsible, at his or their expense for converting to underground service and disconnecting their overhead services within ninety (90) days following notice in writing of the availability of such underground service. Time in consummating such connection and disconnection is of the essence and such notice to the property owner or occupant may be mailed, postage prepaid, or delivered in person.

I. Where abovegrade pole line installations are permitted under the variance procedures outlined in Section 6, conductors shall be placed in vertical alignment or any other approved alignment as subsequently designated by the City Engineer.

J. Plans for all above-ground installations, including those excepted under Section 1, D1, shall be submitted to the Planning Department for approval of site screening and setbacks prior to the issuance of a service permit by the Engineering Department.

K. As-build Project Drawings in a form and scale conforming to generally accepted engineering practice shall be submitted in duplicate to the office of the City Engineer within ninety (90) days of the completion of any underground project within the City. In addition, each utility shall submit in duplicate as-built drawings of all of its underground facilities within the City on an annual basis, commencing on January 1, following the effective date of this Ordinance, provided that if said drawings...
are not available at the time of the effective date of this Ordinance, each utility shall be given a reasonable time to prepare such drawings.

Section 4.A. Permits. An underground permit shall be acquired by the serving utility from the office of the City Engineer prior to the proceeding with construction of facilities in the public right-of-way, easements for public facilities and/or public property. No fee shall be charged the utility for this service until an appropriate fee schedule is adopted by the City Council.

B. Overhead Permit. Where above-grade pole line installations are permitted under the variance procedures of Section 6, a permit shall be acquired by the serving utility from the office of the City Engineer prior to proceeding with construction of such facilities in the public right-of-way and/or public property. No fee shall be charged the utility for this service until an appropriate fee schedule is adopted by the City Council.

Section 5. Design Standards.

A. All conductors, switches, transformers, and regulating devices shall be installed in accordance with the applicable national, state and local safety standards. All structural devices shall be designed in accordance with the provisions of the latest edition of the Uniform Building Code, subject to the provision of the immediately following sub-paragraph.

A.1. All underground facilities provided for herein shall be installed in such manner as to coordinate with other underground facilities, i.e. water, sewer and gas pipelines, traffic control and other signal systems. Whenever such coordination requires installation practices more restrictive or demanding than the minimum standards required by applicable National, State and Local Codes and Safety standards, the requirements of such coordination shall be governing and controlling.

B. All vaults, handholes, ventilation gratings, and access covers and conduit in public rights-of-way shall be strong enough to withstand 10,000 pound wheel load. The serving utility may, at their option, elect to restrict a 10,000 pound wheel load requirement while assuming the responsibility for upgrading facilities to traveled street areas beyond the original traveled street area should subsequent widening occur.

C. Any equipment excepted from those underground requirements or otherwise permitted to be installed above-ground shall be:

1. Placed within an enclosure or part of the building
being served, or

2. Suitably screened with masonry or other decorative panels and/or evergreen trees, shrubs, and landscaping planted in sufficient depth and height, within a period of five (5) years, to form an effective sight barrier.

3. The utility shall be responsible for the installation, maintenance, repair, or replacement of the aforementioned screening materials when the real property on which the above-ground facility is located is owned by the utility. When said above-ground facility is located on non-utility owned real property, the owner(s) shall bear the expense of installation maintenance, repair or replacement of screening materials outlined hereinabove.

D. Space frames and structural arrangements for holding equipment shall be designed to have an uncluttered and neat appearance.

E. Streets shall be graded to sub-grade prior to the installation of underground facilities.

Section 6. Variance Procedures - Appeal to Board of Adjustment.

A. All applications for variances from the foregoing underground requirements shall first be filed with the Kent City Engineer. If, thereafter, the Kent City Engineer shall order such variance request denied, then the applicant shall have the right to appeal such ruling to the Kent Board of Adjustment, subject to all the rules and regulations of Chapter 10.15 of Kent City Ordinance No. 1071, as amended.

B. Underground requirements shall be waived by a variance only if the utility owner or user, or any other affected party, can demonstrate that it would work an undue hardship to place the facilities concerned underground.

1. By undue hardship it is meant a technological difficulty associated with the particular facility, or with the particular real property involved; or a cost of undergrounding such a facility which, in the discretion of the City Engineer (or the Kent Board of Adjustment) is deemed to outweigh the general welfare consideration implicit in underground installation; or an area where the growth pattern has not been sufficiently established to permit the determination of ultimate service requirements or major service routes.

Section 7. A. Joint Trenches. In the undergrounding of facilities, as contemplated by this Ordinance, it is the City's
intent to authorize the establishment of joint or common trenches; that is, the utilization of a single trench where feasible by all utilities and/or franchise holders involved in the relocation of overhead facilities. Upon application for an underground permit, the City Engineer shall determine what utilities and franchise holders shall use the proposed trench and the issuance date of the applicable underground permit. If, at the time of application for an underground permit, it does not appear that all utilities involved in the undergrounding project have made appropriate arrangements for the use of common trenches, the City of Kent Engineer may delay the issuance of such permit until all utilities involved in such relocation shall have been given the opportunity to be heard upon two weeks' notice.

Section 8. Enforcement.

A. Any violation of the provisions of this Ordinance or any amendments thereof by any entity or individual affected thereby shall be subject to a fine of $300.00 or a term of ninety (90) days in jail, or by both; such fine and imprisonment, for each day such violation continues.

B. Enforcement Officer. The City of Kent Engineer or his designated representative shall be responsible for investigation of violations and citation of the violating parties.

Section 9. Kent City Ordinance 1525 and any and all Ordinances or parts of Ordinances in conflict herewith are hereby repealed and superseded.

Section 10. Savings Clause. If any portion of this Ordinance or its application to any person or circumstance is held invalid, the remainder of this Ordinance, or the application of its provisions to other persons or circumstances shall not be affected.

Section 11. This Ordinance shall take effect and be in force five days from and after its passage, approval and publication, as provided by law.

Attest:

MARIE JENSEN, CITY CLERK

Approved as to form:

JOHN B. BERETTNER, CITY ATTORNEY
Passed the day of , 1969.
Approved the day of , 1969.
Published the day of , 1969.

I hereby certify that this is a true copy of Ordinance No. 160, passed by the City Council of the City of Kent and approved by the Mayor of the City of Kent as hereon indicated.

(SEAL)

MARIE JENSEN, City Clerk