Ordinance No. 1695

(Amending or Repealing Ordinances)

CFN=440 – Underground Wiring Ordinance and Appeal
Passed - 12/21/1970
Repealing & Superseding Ordinance 1525 as amended by Ordinance 1610 – regarding construction of new underground wiring

Amended by Ord. 3690 (Sec. 5 now Sec. 7.10.060)
Kent City Council  
Kent, WA 98031

Dear Council Members:

I herewith veto and return without my signature Kent City Ordinance No. 1695 passed by the Kent City Council on December 7, 1970. I am appreciative of the work of the Chamber of Commerce committee on this ordinance. However, I do not feel the ordinance in its present form provides enough assurance that undergrounding will be accomplished.

I would propose the following items be discussed at the next council workshop:

1. Section 3, part E relates to conversion to underground facilities in 15 years, but the ordinance does not indicate how this will realistically be done.

2. Section 1, B 3 includes ornamental street lighting standards in the same category as maintenance facilities. I do not believe it should qualify.

3. Section 1, B 6 relates to temporary services for construction. More specific regulations are needed to assure that this wiring does not become the permanent utility for the new construction.

4. Section 6, B 1 needs to be more specific in its definition of technological difficulty.

5. Section 6, B 3 does not seem particularly valid considering the very careful planning of sites that is being done on very expensive land in this area.

Along with discussion of the ordinance, I would suggest that the council consider establishing a cumulative underground wiring fund. The following example explains the purpose of the fund:
ABC Company plans to construct a facility and requests a variance. The variance would be granted provided,

1. The company and the city agree on the cost of undergrounding to the facility.

2. The company make yearly payments over a 15 year period to the city cumulative fund, establishing the funds needed for undergrounding.

The city would be expected to participate in the same manner. This year's budget includes Gowe Street, Kent-Kangley, South 212th and Reith Road. Obviously it would not be possible to fund all of these in a 15 year period. The ordinance could specify undergrounding the core area now and be amended later to indicate the next area of priority.

Other than the Local Improvement District method, there does not appear to be a realistic way to accomplish undergrounding. All new residential construction is required to underground; I believe the city, commercial and industrial sectors must find a way to make undergrounding possible and practical.

Sincerely,

ISABEL K. HOGAN, Mayor
City of Kent

IKH:ldl
ORDINANCE NO. 1695

AN ORDINANCE of the City of Kent, Washington, repealing and superseding Ordinance No. 1525 as amended by Ordinance No. 1610; regulating for the general welfare the construction of new and the conversion of existing aerial electrical or communication facilities underground within the corporate limits of the City; providing certain minimum requirements and procedures relating thereto; requiring connections and disconnections of service affected thereby and providing penalties for the violation thereof.

BE IT ORDAINED BY THE CITY OF KENT AS FOLLOWS:

Section 1. Scope and Exceptions.

A. It is especially found and determined by the City that the general public necessity, convenience, health, safety and welfare require that electrical or communication facilities be constructed underground in an orderly manner in accordance with the requirements specified herein.

B. This ordinance shall apply to everyone who owns electric facilities or communication facilities, including but not limited to telephone and cable television facilities, within the corporate city limits; provided, however, the following facilities are excepted from the undergrounding requirements of this ordinance:

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 5C (2).

2. Electric transmission systems of a voltage of 55kv or more, (including poles and wires) and equivalent communications facilities.

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.

7. Secondary wiring for street lighting.
Section 2. Cost.
The cost of constructing new facilities underground 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 service 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 the absence of filed tariffs, rules or regulations, published policies, or contractual agreement, the cost of constructing new facilities underground or relocating existing aerial facilities underground may be financed by any method authorized by state law.

Section 3. Underground Requirements.
A. New Facilities.
(1) All major additions of new facilities (three or more spans and/or 500 feet or more) shall be underground.
(2) Minor additions of new facilities may be constructed aerially where the growth requirements are uncertain or where existing facilities are aerial. A permit from the City Engineer shall be required.

B. Rebuilds, Replacements and Additions.
(1) A major rebuild or replacement of existing aerial facilities (three or more spans and/or 500 feet or more) shall be underground.
(2) A minor rebuild or replacement of or addition to existing aerial facilities may be constructed aerially. No permit shall be required.
(3) When there is casualty damage to an overhead service system due to the elements or other major service outage, the facilities may be restored aerially. No permit shall be required.
(4) An addition of three phase conductors or re-conductoring will be allowed on existing aerial facilities. No permit shall be required.

C. Relocations or Rearrangements.
(1) Relocations or rearrangements of aerial
facilities necessitated by, but not limited to, road widening, sewer and water main projects, shall be underground if replacement of poles and associated facilities are necessary to accommodate the improvement.

(2) Relocations or rearrangements of aerial facilities not requiring major replacement of poles and associated facilities may be constructed aerially.

D. Service Connections.

Service connections are facilities extending from a distribution system and terminating on private property to serve a customer or subscriber. Service connections:

1. Shall be underground, if the distribution system serving the customer or subscriber is underground.

2. Shall be underground if the distribution system serving the customer or subscriber is aerial, but underground entrance facilities have been provided by the builder, customer, or subscriber in accordance with utility company requirements.

3. May be aerial, if the distribution system serving the customer or subscriber is aerial, but underground entrance facilities have not been provided by the builder, customer, or subscriber in accordance with utility company requirements.

E. Specific Program.

All areas zoned or rezoned for commercial or industrial use shall be converted to underground facilities within fifteen (15) years from the date of this ordinance, subject to a ten (10) year extension by the City, whereby in the City's judgment its financial situation prohibits the City from participating to the degree implied by the provisions of this ordinance.

Conversion to underground of existing aerial facilities shall be accomplished in an orderly manner and in conjunction with the City's street widening and environmental improvement program.

F. Street Lighting.

Street lighting facilities or systems, conforming to current standards of the City Engineering Department, shall be
installed as an integral part of all undergrounding projects constructed after the effective date of this ordinance.


All right-of-way proposed to be dedicated to the City or easements for public facilities shall be subject to the provisions of this ordinance.

H. Connections and Disconnections of Affected Service.

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 his or their aerial services within ninety (90) days following notice in writing of availability of such underground service. Time in consummating such connection and disconnection is of the essence and such notice to the property owner, customer or subscribed may be mailed, postage prepaid, or delivered in person. In the event that said conversion and disconnection is not accomplished within ninety (90) days of receipt of notice, the City may order the work done and the actual cost constitute a lien against the real property subject to enforcement as provided by law.

I. Site Screening.

Plans for all above-ground installations shall be submitted to the Planning Department for approval of site screening and set-backs prior to the issuance of a service permit by the Engineering Department.

J. As Built.

Project drawing in form and scale conforming to generally accepted engineering practices, 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.

Section 4. Permits.

A. Underground Permits.

A permit for underground construction shall be obtained from the office of the City Engineer prior to construction of facilities in the public right-of-way. No fee shall be charged for this permit until an appropriate fee schedule is adopted by the City Council.

B. Aerial Permits.

Where pole line installations are permitted under the variance procedures of Section 6, or minor new additions under Section 3A (2) or temporary aerial facilities under Section 1B (6),
a permit shall be obtained from the office of the City Engineer prior to construction of such facilities in the public right-of-way. No fee shall be charged for this permit 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; provided, however, all underground facilities provided for herein shall be installed in such manner as to coordinate with other underground facilities, e. g., 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 its 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 years, to form an effective sight barrier.

(3) The utility shall be responsible for the installation, maintenance, repair, or replacement of the afore-mentioned 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.


A. All applications for variances from the foregoing underground requirements shall first be filed with the City Engineer. If, thereafter, the City Engineer shall deny such variance request, then the applicant shall have the right to appeal such ruling to the City Council or its designated sub-committee. In the event that the variance is denied by the City Council or its designated sub-committee, then the applicant shall have the right to appeal such ruling to the 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 owner of electrical or communication facilities or the user thereof, or any other affected person can demonstrate that it would be an undue hardship to construct such facilities underground. The term "undue hardship" shall mean either:

(1) There is a technological difficulty associated with such facilities or with the real property involved;

(2) The cost of the underground construction outweighs the general welfare consideration in requiring underground construction; or

(3) The growth pattern in the geographical area has not been sufficiently established to determine the ultimate service requirements or major service routes.

Section 7. Joint Trenches.

Where several utilities are planned or required in the same corridor, every effort shall be made by the utilities to
use joint trenches for such facilities.

Section 8. Penalties.
Any person convicted of violating any of the provisions of this ordinance shall be punished by a fine not to exceed $500.00 or by imprisonment in the City jail for a period not to exceed six months, or by both such fine and imprisonment.

Section 9. Enforcement Officer.
The City Engineer or his designated representative shall be responsible for the investigation of violations.

Section 10. Repeal and Supersede.
Ordinances Nos. 1525 and 1610 and any other ordinances of the City which are inconsistent with any of the provisions of this ordinance are hereby repealed and superseded.

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

ISABEL HOGAN, MAYOR

ATTEST:

MARIE JENSEN, City Clerk

APPROVED AS TO FORM:

DONALD E. MIRK, City Attorney

Passed the 7th day of December, 1970.
Approved the ___ day of December, 1970.
Published the 25th day of December, 1970.

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

MARIE JENSEN, City Clerk
Ordinance 1695 vetoed by Mayor Hogan December 16, 1970

The ordinance was reconsidered by the Council on December 21, 1970 and passed by a unanimous vote.

ISABEL HOGAN, MAYOR

ATTEST:

MARIE JENSEN, City Clerk

APPROVED AS TO FORM:

DONALD E. MIRK, City Attorney

Passed the 21st day of December, 1970.
Approved the 26th day of December, 1970
Published the 26th day of December, 1970

I, hereby certify that this is a true and correct copy of Ordinance No. 1695, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

MARIE JENSEN, City Clerk