



# CITY OF BETHEL

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Vote: 2-Yes, 2-No (Harding, Wintersteen), 1-Abstention (McComas)

Introduced by: City Manager Hunter  
Date: July 11, 1995  
Public Hearing Date: August 1, 1995  
Action: Failed

## ORDINANCE #95-19

### AN ORDINANCE OF THE CITY COUNCIL OF BETHEL, ALASKA, AMENDING TITLE 15 OF THE BETHEL MUNICIPAL CODE BY ADDING A NEW CHAPTER 15.12, PERTAINING TO MANDATORY PLACEMENT OF CITY AND TELEPHONE LINES UNDERGROUND

BE IT ENACTED by the City Council of Bethel, Alaska, as follows:

Section 1. Title 15 of the Bethel Municipal Code is amended by adding Chapter 15.12 as follows:

#### Chapter 15.12 CATV and Telephone Lines

15.12.010 Definitions. As used in this chapter:

- A. "CATV" means a utility that operates nonbroadcast facilities that distribute to subscribers the signals of one or more television broadcast stations.
- B. "Distribution line" means all or any part of a conductor and supports owned or operated by a utility and used to transmit messages, impressions, pictures or signals by means of electricity or electromagnetic waves between a central office and the lot line of a customer's premises, excluding auxiliary equipment such as above ground transformers, switching devices, pad-mounted distribution facilities and CATV power supplies.
- C. "Central office" means a facility where messages, impressions, pictures or signals are generated, received or controlled.
- D. "Relocated" means changed in alignment by more than six spans.
- E. "Utility" means any entity furnishing CATV or telecommunications service.

15.12.020 Telephone and CATV Lines.

All new telephone and CATV lines shall be installed in accordance with all applicable laws, ordinances and regulations, and to the extent not inconsistent therewith, the specifications of the utility providing the service.

15.12.030 Underground Placement of Distribution Lines.

- A. Except as provided in B and C of this section, all newly installed or relocated distribution lines within the City shall be placed underground.
- B. A distribution line may be temporarily placed overhead when necessary to immediately restore service interrupted by accident or damage by flood, fire, earthquake or weather. Such a temporary distribution line must be replaced by an underground distribution line conforming to this chapter within twelve (12) months of its placement.

- C. A distribution line may be placed on the surface of frozen ground, provided that it is placed underground within twelve (12) months thereafter.
- D. Nothing in this section restricts the maintenance, repair or reinforcement of existing overhead distribution lines.
- E. A temporary distribution line may be placed overhead in connection with new construction if the utility's tariff approved by the Alaska Public Utilities Commission expressly provides for the removal of that line by a date certain, not to exceed twelve (12) months after its placement.

15.12.040 Variances.

- A. The Planning Commission may grant a variance from the requirements of this chapter when the Commission finds any of the following:
  1. placing a distribution line underground would cause an excessive adverse environmental impact;
  2. placing a distribution line underground would threaten public health and safety, because such placement cannot be shown to meet acceptable technical standards for safety;
  3. placing a distribution line underground in an environmentally sound and safe manner would cost more than three times the cost of placing the line overhead, where the applicant demonstrates the relative cost to the satisfaction of the Commission.
- B. The director of the Planning Department may grant a variance for a stated period of time not to exceed two (2) years from the requirements of this chapter when he finds that the distribution line is being placed overhead temporarily for one of the reasons listed in this subsection:
  1. to provide service when weather conditions do not allow excavation for underground placement;
  2. a permanent location for underground placement is not available because of construction in progress; or
  3. to provide service to a temporary use or structure.

15.12.050 Enforcement.

- A. Violations of this chapter are subject to the penalties, enforcement procedures and remedies set forth in Chapter 18.84.
- B. No permit may be issued to install a distribution line on City property or in a City easement or right-of-way in violation of this chapter.

15.12.060 Nonconforming Utility Distribution Lines.

Existing overhead distribution lines are nonconforming distribution lines and are subject to Sections 15.12.070 through 15.12.090.

15.12.070 Placing Nonconforming Utility Distribution Lines Underground.

A utility owning or operating nonconforming distribution lines shall place those lines underground within fifteen (15) years of the effective date of this chapter; provided that a utility need not expend, except by special agreement, during any fiscal year of the utility, more than 2% of its gross revenue derived from service connections within the City during its preceding fiscal year in order to comply with this subsection.

15.12.080 Nonconforming Distribution Lines in Municipal Right-of-Way.

- A. The Department of Public Works shall furnish to a utility owning or operating distribution lines all planning documents for municipal road construction which will require the relocation of those utility distribution lines.
- B. A utility that installs a distribution line underground in material compliance with a right-of-way permit issued by the City, and in accordance with this chapter, shall be reimbursed by the City for the necessary costs of any subsequent relocation of the distribution line required by City road construction.
- C. If City road construction requires the relocation of a nonconforming distribution line, the City, as part of the road construction project cost, shall reimburse the necessary costs of the relocation. Reimbursable costs under this subsection include engineering and design, inspection, construction and general overhead costs, but not plant betterment costs. "Plant betterment costs" means the costs of providing distribution line capacity or quality beyond what current industry standards require for the capacity or level of service existing before the relocation.

15.12.090 Conversion of Service Connections

A utility that places a previously nonconforming distribution line underground as required by Section 15.12.070 shall bear the cost of placing underground any related service connection or utility facilities on a customer's premises.

**Section 2.** If any part or provision of this ordinance or application thereof to any person or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which such judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this chapter or its application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without any such part, provision or application.

**Section 3.** This ordinance takes effect immediately upon adoption.

PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1995.

\_\_\_\_\_  
Allan Wintersteen, Mayor

ATTEST:

\_\_\_\_\_  
Connie Tucker, City Clerk