21.07.050 - Utility distribution facilities.

A. Underground placement required for new or relocated lines.
   1. Except as provided in subsection B. below, all newly installed or relocated utility distribution lines (as defined in Section 21.14.040) shall be placed underground.
   2. Utility distribution lines owned or operated by utilities that are parties to a joint trench agreement shall be placed underground in a joint trench.
   3. Nothing in this section restricts the maintenance, repair, or reinforcement of existing overhead utility distribution lines.

B. Exceptions.
   1. Except where an assessment district has been formed to convert overhead utility distribution lines as provided in Title 19.60, utility distribution lines need not be placed underground in the class B improvement area defined in subsection 21.08.050 B., or in the I-2 zoning district. However, in the following areas newly installed or relocated utility distribution lines shall be placed underground: Lower Hillside, between and including Abbott Road, Rabbit Creek Road, Hillside Drive and the New Seward Highway.
   2. Except where an assessment district has been formed to convert overhead utility distribution lines as provided in AMC Chapter 19.60, CATV utility distribution lines need not be placed underground where there are other overhead utility distribution lines; provided that, when all of the other overhead distribution lines are placed underground, the CATV utility distribution line shall also be placed underground.
   3. A new utility distribution line may be placed overhead when necessary immediately to restore service interrupted by accident or damage by flood, fire, earthquake or weather; provided that the utility distribution line shall be replaced by a utility distribution line conforming to this chapter within 12 months of its placement.
   4. A utility distribution line or service connection may be placed on the surface of frozen ground, provided that it is placed underground within 12 months thereafter.
   5. New facilities may be added to existing overhead utility distribution facilities located outside target areas.
   6. A temporary utility distribution line may be placed overhead in connection with new construction if the utility's tariff approved by the state public utilities commission expressly provides for removal of that line by a date certain, not to exceed 12 months thereafter.

C. Variances.
   1. The director may grant a variance from subsection A. above when any of the following is found:
      a. Placing a utility distribution line underground would cause an excessive adverse environmental impact;
      b. Placing a utility distribution line underground would threaten public health and safety, because the placement cannot be shown to meet acceptable technical standards for safety; or
      c. Placing a utility 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 director.
   2.
The director may grant a variance from subsection A. above when he or she finds that the utility distribution line is being placed overhead temporarily for one of the reasons listed in this subsection:

a. The line is being placed to provide service when weather conditions do not allow excavation for underground placement;

b. A permanent location for underground placement is not available because of construction in progress; or

c. The line is being placed to provide service to a temporary use or structure. A variance issued under this subsection C.2. shall expire within two years of its issuance.

D. *Relationship to Chapter 21.12, Nonconformities.* Existing overhead utility distribution lines located where this title requires new or relocated utility distribution lines to be placed underground are nonconforming utility distribution lines and are subject to the provisions of this subsection. A utility distribution line is not a nonconforming structure or use under Chapter 21.12, Nonconformities, solely because it is a nonconforming overhead line under this section.

E. *Nonconforming overhead lines in dedicated municipal parks.*

1. When a utility proposes to underground an existing overhead utility distribution line located in a dedicated municipal park, and the overhead and underground alignment are identical, no fee shall be assessed to the utility for the value of the easement.

2. The public works department director may, upon request by a utility:

   a. Grant an administrative variance from subsection E.1. above, up to five feet on either side of the existing overhead easement center line, to adjust the underground alignment.

   b. An adjustment exceeding five feet on either side of the existing overhead easement center line shall require a new easement, including assessment of a fee for the value of the easement and administrative costs.

3. The utility shall remain solely responsible for municipal administrative fees and costs associated with the relocation, including but not limited to, a managing department application fee, and document research, review, and preparation.

4. The disposal procedures for interests in municipal land, set out in AMC Chapter 25.30, and the variance procedure, set out in subsection C. above, shall not apply to this section.

F. *Designation of target areas.*

1. An electric utility that owns poles that support nonconforming utility distribution lines shall prepare or otherwise include as part of its annual capital improvement plan, a five-year undergrounding program consistent with subsection G. below. This five-year program shall be updated on an annual basis. Priorities shall be based on undergrounding in conjunction with the electric utility's essential system improvements and then by target area as set forth below in no particular order of priority. The director shall review and provide comment for consideration by the electric utilities on these five-year programs. When reviewing and commenting on these programs, the director shall consider the following factors in no particular order of priority:

   a. Whether undergrounding will avoid or eliminate an unusually heavy concentration of overhead distribution facilities.

   b. Whether the street or general area is extensively used by the general public and carries a heavy volume of pedestrian or vehicular traffic.

   c. Whether the appearance of grounds and structures adjacent to the roadway is such that the removal of the overhead facilities will substantially improve the general appearance of the area.
d. Whether the street or area affects a public recreation area or an area of scenic interest.
e. Whether there is a significant opportunity to achieve economies due to the anticipated relocation or replacement of overhead lines or the widening or realignment of streets within a given area.
f. Whether the five-year program sufficiently addresses the objectives of subsection G. below.
g. Whether the area under consideration is within a zone where new and relocated distribution lines are required to be placed underground.
h. Whether the installation of underground distribution lines is economically, technically and environmentally feasible, including the effect on the attached utility.
i. Whether undergrounding will avoid or eliminate overhead electric distribution or other attached utility facilities in a residential area with significant risk exposure to wildfire, high winds, or other natural disaster.

2. The director shall confirm annually that the electric utilities have developed project undergrounding implementation plans. The director shall consult with the utilities and public agencies affected by any implementation plan. In reviewing implementation plans, the director shall consider the factors stated in subsection F.1. above.

3. The following shall be target areas:
   a. Central Business District: between and including Third Avenue and Tenth Avenue and L Street and Ingra Street.
   b. Midtown area: between and including New Seward Highway and Minnesota Drive and International Airport Road and Fireweed Lane.
   c. All municipal and state street improvement projects except for those which do not require relocation of utility distribution facilities.
   d. The following major traffic corridors:
      i. Old Seward Highway.
      ii. Ingra and Gambell Streets between and including Ninth Avenue and Fireweed Lane.
      iii. Northern Lights Boulevard and Benson Boulevard between and including Glenwood Street and Arlington Drive.
      iv. Muldoon Road between and including New Glenn Highway and Patterson Street.
      v. Tudor Road between and including Patterson Street and Arctic Boulevard.
      vi. Boniface Parkway between and including 30th Avenue and New Glenn Highway.
      vii. Spenard Road between and including Hillcrest Drive and International Airport Road.
      viii. Arctic Boulevard between 17th Avenue and Tudor Road.
      ix. Lake Otis Parkway between Tudor Road and Abbott Loop.
   e. All park, recreational use, and scenic interest areas.
   f. Eagle River Central Business District between and including the New Glenn Highway, North Eagle River Access Road, Aurora Street as extended to the Old Glenn Highway, and the Old Glenn Highway.
   g. Any area where utility distribution facilities are provided by more than one utility as a result of mergers and boundary changes approved by the state public utilities commission.
   h. School and university areas.
   i. Any residential area with significant risk exposure to wildfire, high winds, or other natural disaster.
G. **Nonconforming overhead lines.**

1. An electric utility that owns poles that support nonconforming utility distribution lines shall remove the poles and place those lines underground. Any other utility that attaches to such poles shall place its lines underground at the same time that the pole owner places lines underground.
   
   a. The electric utility that owns poles shall, in each fiscal year, expend at least two percent of a three-year average of its annual gross retail revenues derived from utility service connections within the municipality, excluding toll revenues, revenues from sales of natural gas to third parties, and revenues from sales of electric power for resale for purposes of undergrounding nonconforming lines. An electric utility’s expenditures, pursuant to AS 42.05.381(h), within the municipality, shall be counted toward satisfaction of the two percent expenditure required by this subsection.
   
   b. A utility with lines attached to a pole that is to be removed under this subsection shall place its lines underground at the same time that the pole owner places its lines underground. To underground nonconforming utility lines, an attached utility shall not be required to expend more than two percent of its annual gross retail revenues derived from utility service connections within the municipality, excluding toll revenues. For the purpose of satisfying subsection 21.07.050 G., the utility's expenditures pursuant to AS 42.05.381(h) within the municipality are counted toward this two percent expenditure limit.
   
   c. The electric utility that owns poles may choose which existing lines to underground in order to fulfill the two percent expenditure requirement, in consultation with appropriate public agencies and any other utilities.
   
   d. An electric utility that owns poles that does not expend the amount required in subsection G.1. of this section, or that expends more than that amount, may carry over the under expenditure or over expenditure as an adjustment to the following year's obligation.

2. The electric utility that owns poles shall notify the director, and utilities or entities with lines attached to such poles, of the approximate date that the owner plans to remove the poles. Such notice, where possible, shall be given at least four months in advance of the undergrounding except where an emergency or other unforeseen circumstances preclude such notice, in which case such advance notice as is reasonable under the circumstances shall be provided.

3. A utility shall annually submit a report of its undergrounding projects and expenditures for nonconforming lines to the director within 120 days of the end of the preceding calendar year.

4. All new service connections shall be placed underground in the same manner as required for utility distribution lines under subsections A. and B. above. New service lines may be temporarily installed above ground from October through May, if placed underground prior to the next October.

H. **Lines in municipal right-of-way.**

1. The department of public works shall furnish to a utility owning or operating utility distribution lines all planning documents for municipal road construction that will require the relocation of those utility distribution lines.

2. Once a utility installing a utility distribution line underground in material compliance with a right-of-way permit issued by the department of public works and in accordance with this chapter, the municipality shall reimburse the cost of any subsequent relocation of the utility distribution line required by municipal road construction.

3. 
If municipal road construction requires the relocation of a nonconforming utility distribution line, the municipality, as part of the road construction project cost, shall reimburse the cost of the relocation. Reimbursable costs under this subsection include engineering and design, inspection, construction, and general overhead costs, but exclude utility plant betterment costs. Plant betterment costs are the costs of providing utility distribution line capacity or quality beyond what current industry standards require for the capacity or level of service existing before the relocation.

I. **Conversion of service connections.** A utility that places a nonconforming utility distribution line underground as required by subsection G. above shall bear the cost of placing underground any related service connections or other utility facilities on a customer's premises, in accordance with the utility's applicable tariff or rules or regulations of operation.

J. **Landscaping.** A utility shall provide written notice to property owners about planned projects that affect landscaping within utility easements.

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13)