

13.32A.130

A. *City Responsibilities.*

1. When service from underground electric and telecommunication utility facilities becomes available in all or part of a conversion area, the city engineer ~~shall~~ will issue a directive to the owners of all structures or improvements with service connections to the existing or temporary overhead utility facilities in the area by means of mailing a certified notice stating that:

- ~~_____ a. S~~ service from the underground utility facilities is available and notifying the property owners of the owner's responsibilities;
- ~~_____ b. To facilitate completion of the city's project, all electric and telecommunication service connections from the existing aerial utility facilities within the area to any structure or improvement must be decommissioned, disconnected and removed within 90 calendar days after the date of mailing;~~
- ~~_____ c. Should such owner fail to complete conversion of such service connections from the aerial system to the underground system within 90 calendar days after the date of mailing, the city will order the electric and telecommunication utilities to disconnect and remove the service connections;~~
- ~~d. The owner may object to the disconnection and removal of the service lines as provided in subsection D of this section.~~
- ~~_____ 2. Time in consummating such connection and disconnection of aerial services is of the essence and such notice to the property owner or occupant of the affected premises may be mailed.~~

B. *Property Owner's Responsibilities.*

1. To facilitate completion of the city's project, all electric and telecommunication service connections from the existing aerial utility facilities within the area to any structure or improvement must be decommissioned, disconnected and removed within 90 calendar days after the date of mailing. After existing aerial utility facilities identified by the City's notice in section A have been decommissioned, disconnected, and removed, the Property Owner must:

- a. Convert the service connections from the aerial system to the underground system within 90 calendar days after the date of receipt of the notice or the City will order the electric and telecommunication utilities to disconnect and remove the service connections. If the owner has filed written objections to this disconnection and removal with the city clerk within 30 calendar days after the date of mailing, the City will not order disconnection and removal until after the appeal hearing on those objections; or

b. Notify the city engineer in writing within 30 calendar days after the date of receipt of the notice provided under Section A that the Property Owner wants to discontinue utility service; or

c. If the city engineer determines it is in the best interest of the public and the City's infrastructure system for the City to complete the service connection from the underground system to the existing aerial service point of connection and the Property Owner desires the City to do so, the Property Owner will enter into an agreement with the City within 90 calendar days after the date of mailing to provide Property access to complete the conversion.

~~Such conversion of the service connection, including installation of any underground service connections, shall be completed within 90 calendar days of the city's mailing set forth in subsection A of this section and RCW 35.96.050 that service from the underground utility facilities is available.~~

~~—2. Property owners wishing to discontinue utility service shall provide written notice of that intent to the city engineer within 30 calendar days of receipt of the city engineer's notice that the underground system is available for service.~~

~~—3. If the owner of any structure or improvement with a service connection to an existing aerial electric and/or telecommunication utility facility within a conversion area fails to convert the service connection from aerial to underground service within 90 calendar days after the date of the mailing of the notice set forth in subsection A of this section, the city engineer shall order the electric and/or telecommunication utilities to disconnect and remove all such service connection; provided, that if the owner has filed written objections to such disconnection and removal with the city clerk within 30 calendar days after the mailing, then the city shall not order such disconnection and removal until after the appeal hearing on such objections.~~

C. Financial Responsibilities.

1. For city projects, the cost of relocating existing utility aerial distribution facilities ~~shall~~will be borne by the serving utility and the city in accordance with the filed tariffs or franchise agreement. ~~In absence of a~~If there is no filed tariff or franchise agreement, the cost of the relocation of existing aerial distribution facilities ~~shall~~will be borne by the serving utility.

2. For city projects, the undergrounding of the service connections for real property served by the aerial electric or telecommunication utility facilities that are being relocated underground ~~shall~~will be at the owner(s)'s expense, including:

a. Decommission, disconnect, and remove the service connections from those utility facilities to any structures or improvements located on the property.

b. Either install underground service connections to those structures/improvements on the property or, ~~upon~~ approval of the city engineer, discontinue utility service to one or more of the structures/improvements on the property.

Services that are being connected by the city per ACC 13.32A.130(B)(1)(c) are exempted from this requirement and the City will be financially responsible for those connection costs.

3. All ~~such~~ conversion of utility facilities to underground facilities may be undertaken by local improvement district or as otherwise permitted by law and as further authorized by RCW 35.96.030 and 35.96.040.

D. *Appeal Procedures.*

1. A ~~property owner~~Property Owner may ~~object~~appeal to the public works director the disconnection and removal of an aerial service connection by filing a written objection ~~thereto~~ with the city clerk within ~~30 calendar~~20 working days after the date of the mailing of the notice set forth in subsection A of this section. Failure to file a timely written objection within such time will constitute a waiver of the owner's right ~~thereafter~~ to object to such disconnection and removal. The public works director will have 15 working days to review the appeal, decide whether to uphold or modify the city engineer's decision, and notify the property owner of such decision.

- ~~2. Upon the timely filing by the owner of an objection, the owner shall have the right to file an appeal of the city engineer's directive, which shall be heard by the city of Auburn hearing examiner.~~

- ~~32.~~ All appeals ~~filed pursuant to this section of the public works director's decision~~ must be filed in writing with the public works director within 10 working days of the public work director's decision. ~~filing date of the owner's written objection and shall~~Appeals must specify the error of law or fact, or new evidence which could not have been reasonably available at the time of the ~~city engineer~~public work director's decision, which shall constitute the basis of the complaint.

- ~~4. Upon receipt of a timely written appeal, the public works director shall review the materials submitted and prepare a written staff report detailing the rationale of the city engineer's directive and findings of fact for the hearing examiner.~~

- ~~53.~~ The public works director shall schedule the hearing in accordance with Chapter 2.46 ACC and notify the contesting party of the scheduled hearing. Appeals will be heard by the city's hearing examiner pursuant to Chapter 2.46 ACC. Decisions of the hearing examiner will be based on whether the decision being appealed was consistent with applicable state law and city codes.

- ~~4.~~ Upon receipt of a timely written appeal, the hearing examiner will review the materials submitted and prepare findings of fact. The hearing examiner decision will be final. (Ord. 6442 § 8, 2012; Ord. 6238 § 2, 2009.)