

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Action on Ordinance No. 958 – Waiving Council Rule of Procedure 3.6 and Amending Shoreline Municipal Code Section 13.20.040 to Except Temporary Construction Power from the City’s Undergrounding Requirement
DEPARTMENT:	City Manager’s Office
PRESENTED BY:	John Norris, Assistant City Manager
ACTION:	<input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

Shoreline Municipal Code (SMC) Chapter 13.20 provides the City’s regulations for electrical and communication facilities. SMC Section 13.20.040 provides the exceptions for the Chapter where undergrounding would not be required, and there currently is no exception for temporary construction power. Allowing temporary construction power facilities to be constructed overhead (not be undergrounded) is fairly standard in many jurisdictions’ electrical facility regulations.

Tonight, Council will discuss proposed Ordinance No. 958 (Attachment A) which would amend SMC Section 13.20.040 to allow for overhead temporary construction power. As there are members of the development community actively looking to permit and install temporary construction power, staff recommends that Council review and take action on this proposed Ordinance as soon as possible. Therefore, staff is also recommending that Council waive Council Rule of Procedure 3.6 which requires three readings of Ordinances for adoption. Taking action on proposed Ordinance No. 958 tonight will provide for two readings of this proposed Ordinance. Additionally, per Council Rule of Procedure 6.1.B., because this is an Action Item before the Council for the first time and this item is not on tonight’s Consent Calendar, Council is required to hold a public comment period for this item following the staff presentation but preceding Council review and potential action.

RESOURCE/FINANCIAL IMPACT

There is no financial impact to the City in amending SMC Section 13.20.040 to allow overhead temporary construction power. If this section of the Code is not amended, there may be significant indirect financial impacts if certain development projects are delayed or are not constructed due to being required to construct temporary construction power for their developments underground. It is difficult to quantify what this lost investment in Shoreline would be, but it is clear that some development would be delayed if not severely curtailed for several years if connection to electrical power is

not financially feasible for the construction of core development in the MUR-70' zoning district of the 145th Street Station Subarea.

RECOMMENDATION

Staff recommends that the City Council waive Council Rule of Procedure 3.6 requiring three readings of Ordinances and adopt Ordinance No. 958 amending SMC Section 13.20.040 to except temporary construction power from the City's undergrounding requirement.

Approved By: City Manager ***DT*** City Attorney ***JA-T***

BACKGROUND

On February 28th, the City Council discussed the issue of required electrical utility undergrounding in the 145th Street Station Subarea and the impact on the Sound Transit Lynnwood Link Extension Project and development in the Subarea. The staff report for this Council discussion can be found at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2022/staffreport022822-9a.pdf>.

This discussion was prompted by Seattle City Light's (SCL's) announcement that it was delaying its critical underground infrastructure project that is necessary to serve the Sound Transit light rail project at 145th street. The City's current Municipal Code regulations prohibit new electrical facilities or extensions, additions, duplications, or rebuilds of existing electrical facilities being constructed on overhead poles (SMC Section 13.20.050). The City has an interest in addressing the need for electrical service to Sound Transit's light rail station on an interim basis until SCL's delayed infrastructure upgrade is installed in the Subarea. Additionally, when reviewing these provisions to address the SCL delay, it was noted that the current Code does not explicitly allow for overhead temporary construction power in any part of the City. This issue impacts planned development in the 145th Street Station Subarea and may also impact development elsewhere in the future.

At the conclusion of this discussion, Council directed staff to move forward with the staff recommendation of returning to Council with proposed Code amendments to Chapter 13.20 of the Municipal Code to allow for overhead temporary construction power and to allow for some level of interim overhead power until SCL-planned facilities are installed in the 145th Street Station Subarea. As there are members of the development community actively looking to permit and begin construction on development projects with the need for streamlined temporary construction power, staff recommended a two-phase process which would address the issue of allowing overhead temporary construction power first. Thus, tonight's discussion and proposed action will focus on amending SMC Section 13.20.040 to add an exception to the City's undergrounding requirements for electrical facilities to explicitly allow for temporary construction power to be installed aboveground during the construction phase of a project.

DISCUSSION

Proposed Ordinance No. 958 (Attachment A) provides for this proposed Code amendment to SMC Section 13.20.040. This Ordinance would add a new Subsection E to this section of Code that would allow overhead temporary electrical service for construction. As currently drafted, proposed Ordinance No. 958 would apply Citywide and to all development projects. The proposed Code language also states that "overhead temporary electrical service must be disconnected and removed when the project is connected to permanent electrical service or prior to Certificate of Occupancy, whichever occurs sooner." This will ensure that temporary construction power will truly remain temporary and that these temporary facilities will be removed from the City once no longer being utilized.

Alternative for Narrower Allowance of Overhead Temporary Construction Power

During the February 28th Council discussion on required electrical utility undergrounding in the 145th Street Station Subarea, a Councilmember requested that staff also consider narrowing this allowance for overhead temporary construction power to apply to just certain areas of the City, such as the light rail station subareas. This concept was provided with the understanding that allowing for overhead temporary construction power in the locations that the City is most likely to see development and/or where developers would most likely need to provide temporary construction power may minimize overhead electrical facility installation, even if that installation only occurs on a temporary (typically one to two year) basis. While staff understands this concept and agrees that certain areas of the City will likely have higher utilization of this Code allowance than others, it is difficult to predict when and where there may be a need for temporary construction power to support development in the community.

Additionally, it is staff's understanding that providing for overhead temporary construction power on a citywide basis is a standard practice. Staff have reviewed the municipal codes of 16 jurisdictions, of which eight of those jurisdictions had codes that addressed the undergrounding of electrical facilities. Of those eight jurisdictions, five of the jurisdictions had specific exemptions for overhead temporary construction power on a citywide basis, and the codes of the other three jurisdictions were silent regarding temporary construction power. Staff has also reached out to the Municipal Research Services Center (MRSC) to see if they can support a broader review and analysis of municipal electrical codes in the region regarding overhead temporary construction power, but as of the writing of this staff report, staff have not yet heard back about their ability to conduct this review.

Although it would not be staff's recommendation, if Council is interested in narrowing this allowance for overhead temporary construction power to the light rail station subareas only, staff recommends the following amendatory language:

I move to amend Ordinance No. 958 by amending Subsection E in Section 1 of this Ordinance to read as follows: Temporary electrical service for construction in the 145th and 185th Street Station Subareas. Overhead temporary electrical service for construction is a means of supplying electricity aboveground during the construction phase of a project. Overhead temporary electrical service for construction is allowed in the 145th and 185th Street Station Subareas of the City and this temporary electrical service must be disconnected and removed when the project is connected to permanent electrical service or prior to Certificate of Occupancy, whichever occurs sooner.

This amendatory language could also be used if Council was interested in narrowing this allowance to use in the MUR-70' zone only. Council would just need to substitute the above underlined language as follows: "MUR-70' zone" for "145th and 185th Street Station Subareas".

Tonight's Council Meeting and Potential Action

As there are members of the development community actively looking to permit and install temporary construction power, staff recommends that Council review and take

action on this proposed Ordinance as soon as possible. Staff therefore recommends that Council waive Council Rule of Procedure 3.6 which requires three readings of Ordinances for adoption. Taking action on proposed Ordinance No. 958 tonight will provide for two readings of this proposed Ordinance. Additionally, per Council Rule of Procedure 6.1.B., because this is an Action Item before the Council for the first time and this item is not on tonight's Consent Calendar, Council is required to hold a public comment period for this item following the staff presentation but preceding Council review and potential action.

COUNCIL GOAL(S) ADDRESSED

This item addresses City Council Goal 1: Strengthen Shoreline's economic climate and opportunities, and specifically the second portion of Action Step 1 under this Council Goal, which reads: "identify City policies and regulations that may need to be revised in order to realize the City's vision of mixed-use, environmentally sustainable, and equitable neighborhoods within the MUR zones."

RESOURCE/FINANCIAL IMPACT

There is no financial impact to the City in amending SMC Section 13.20.040 to allow overhead temporary construction power. If this section of the Code is not amended, there may be significant indirect financial impacts if certain development projects are delayed or are not constructed due to being required to construct temporary construction power for their developments underground. It is difficult to quantify what this lost investment in Shoreline would be, but it is clear that some development would be delayed if not severely curtailed for several years if connection to electrical power is not financially feasible for the construction of core development in the MUR-70' zoning district of the 145th Street Station Subarea.

RECOMMENDATION

Staff recommends that the City Council waive Council Rule of Procedure 3.6 requiring three readings of Ordinances and adopt Ordinance No. 958 amending SMC Section 13.20.040 to except temporary construction power from the City's undergrounding requirement.

ATTACHMENTS

Attachment A: Proposed Ordinance No. 958

ORDINANCE NO. 958

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON
AMENDING SHORELINE MUNICIPAL SECTION 13.20.040 TO EXCEPT
TEMPORARY CONSTRUCTION POWER FROM THE CITY'S
UNDERGROUNDING REQUIREMENT**

WHEREAS, the City of Shoreline is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington, and planning pursuant to the Growth Management Act, Title 36.70C RCW; and

WHEREAS, SMC Chapter 13.20 sets forth the City's undergrounding requirements for electrical facilities with exceptions to these requirements set forth in SMC 13.20.040; and

WHEREAS, on February 28, 2022, the City Council discussed the provision of electrical power within certain areas of the City and the need to provide clarity within the SMC allowing for temporary construction power to be aboveground; and

WHEREAS, on March 7, 2022, the City Council discussed this Ordinance and waived Council Rule of Procedure 3.6 to take action on this Ordinance;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF
SHORELINE, WASHINGTON DO ORDAIN AS FOLLOWS:**

Section 1. Amendment. SMC 13.20.040, Exceptions, is amended to add a new Subsection E, which shall read as follows:

This chapter shall not apply to the following facilities:

- A. Freestanding streetlights;
- B. Police and fire sirens, or any similar municipal equipment, including traffic control equipment;
- C. Electrical carrying facilities of a voltage over 35-kV (this exemption only applies to physical structures strictly necessary for the conveyance of an electrical charge in excess of 35-kV. Other facilities attached to these structures are not exempted by this subsection);
- D. Communication facilities relying on a carrying source other than that which could be installed aboveground on poles and which cannot function underground as designed including, but not limited to, antennas and satellite communication systems;:
- E. Temporary electrical service for construction. Overhead temporary electrical service for construction is a means of supplying electricity aboveground during the construction phase of a project. Overhead temporary electrical service must be disconnected and removed when the project is connected to permanent electrical service or prior to Certificate of Occupancy, whichever occurs sooner.

Section 2. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and/or the Code Reviser are authorized to make necessary corrections to this Ordinance, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

Section 3. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to any person or situation.

Section 4. Publication and Effective Date. A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON MARCH 7, 2022

Mayor Keith Scully

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik Smith
City Clerk

Julie Ainsworth-Taylor, Assistant City Attorney
on behalf of Margaret King, City Attorney

Date of Publication: , 2022
Effective Date: , 2022