

Sec. 13-142. - Underground utilities; required.

(a) *Definitions.*

- (1) *Utilities.* "Utilities" shall mean all utilities and similar facilities including, but not limited to gas, telephone, cable, fiber, internet, broadband, telecommunications, and other communications and electrical distributing and transmission facilities.
- (2) *Substantially redevelop or reconstruct.* "Substantially redevelop or reconstruct" shall mean (i) the cost of rebuilding, repair or reconstruction will exceed fifty (50) percent of the replacement cost of the building or structure or (ii) a modification to an approved site plan as regulated by section 13-549, is required.

(b) *Applicability.*

- (1) For any new commercial, industrial, retail development application or any other development application other than a residential development application approved after January 1, 2006, all utilities to be located within or in the public rights-of-way adjacent to the development and within that development even if not in the public rights-of-way shall be installed underground at the developer's and/or owner's cost. Existing overhead utilities on public rights-of-way adjacent to the new development and within that development even if not in the public rights-of-way shall be converted to underground utilities at the developer's and/or owner's cost, provided that, where applicable, such cost is determined pursuant to a utility's tariffs, such as those of Florida Power & Light Company, that are approved by the enforceable by the Florida Public Service Commission. Where the costs are not subject to tariffs enforceable by the Florida Public Service Commission, it is the intent of this section that the city will not be responsible for any such costs and that the apportionment of such costs between the developer, owner, and any utility shall be pursuant to a written agreement between the involved parties. For a project parcel located at a roadway intersection, the developer and/or owner shall be responsible to continue the underground conversion across the intersection to the nearest point/points of connection at no cost to the city. No overhead poles shall be allowed to stay adjacent to any parcel that is required to underground utilities pursuant to this section of the City Code.
- (2) If any application is submitted after January 1, 2006, for a permit to substantially redevelop or reconstruct an existing commercial, industrial, retail or any project other than a residential development that occupies one (1) acre or more or that requires site plan approval, all utilities located within, or in the public rights-of-way adjacent to that development and within that development even if not in the public rights-of-way, shall be installed underground at the developer's and/or owner's cost. Existing overhead utilities shall be converted to underground utilities at the developer's and/or owner's cost. For a project parcel located at a roadway intersection, the developer and/or owner shall be responsible to continue the underground conversion across the intersection to the nearest point/points of connection at no cost to the city. No overhead poles shall be allowed to stay adjacent to any parcel that is required to underground utilities pursuant to this section of the City Code.
- (3) a. For any new, redevelopment, or reconstruction of a residential project five (5) acres or more or any new redevelopment or reconstruction of a residential of five (5) units or more approved after January 1, 2006, all utilities located within or in the public rights-of-way adjacent to that development and all utilities located within the project site, shall be installed underground at the developer's and/or owner's cost. All existing over head utilities, including "service laterals" and "service drops" that serve individual residences, units, or commercial establishments in the public rights-of-way and in the project area, regardless whether such utility facilities are located in the rights-of-way or on private property, shall be converted to underground utilities at the developer's and/or owner's cost. When an area is converted to underground service in a project in which the city participates and front-ends the costs to obtain benefits available from any utility (including, without limitation, the reduced cost available from Florida Power and Light Company through that company's governmental adjustment factor waiver tariffs), each property owner in the affected area shall complete the conversion of his or her services including,

service laterals or service drops within ninety (90) days after the new underground facilities have been energized. For a project parcel located at a roadway intersection, the developer and/or owner shall be responsible to continue the underground conversion across the intersection to the nearest point/points of connection at no cost to the city. No overhead poles shall be allowed to stay adjacent to any parcel that is required to underground utilities pursuant to this section of the City Code.

- b. This section shall not be applicable to the remodeling or reconstruction of an individual single family home, situated alone with no other residences on the same parcel, on any sized parcel of property, existing on the property as of the effective date of this ordinance. The remodeling or reconstruction of an existing single family residence is defined as an addition or remodeling that does not require the demolition of more than fifty (50) percent of the existing structure. Any reconstruction or remodeling that requires more than fifty (50) percent of the existing structure to be demolished shall be required to comply with subsection (3)a. above. The intent of this subsection is to allow remodeling of an existing single-family home anywhere in the city that was constructed before the effective date of this ordinance.
- (c) *Exception.* Electrical transmission or distribution lines with a rated load of more than 27 kV (27,000 volts) shall be exempt from the requirements of this section. All electrical transmission or distribution lines with a rated load of 27 kV (27,000 volts) or less shall not be exempted from the requirements of this section.
- (d) *City participation.* Upon application and execution of an agreement by a developer or property owner consistent with the section, the city may participate as an applicant or co-applicant for undergrounding projects in order to take advantage of benefits that may be available from the utility to local government applicants. The developer or property owner shall agree to reimburse the city for the city's costs, including, without limitation, attorney's costs, incurred in the city's participation in the project as contemplated by this section. In certain areas or projects, where the city participates to underground utilities and pays all costs up front to obtain benefits available from any utility including, without limitation, from Florida Power and Light Company (FPL), AT&T, Comcast, etc. each owner and/or developer, who benefits from this conversion or undergrounding, shall pay the city all expenses related to the conversion or undergrounding, including but not limited to design construction and/or any fees in a pro-rated manner as determined by the city commission.
- (e) *Process timing and waiver.*
 - (1) The developer and/or owner shall evidence compliance with the requirements in this division by providing to the city a signed agreement between the developer and/or the owner and each relevant utility showing that the utility has agreed, at the developer or owner's cost, to place or convert the relevant utilities underground, or the developer and/or owner has established an agreement with the city indicating their intent to comply with the undergrounding requirements of subsection (b)(3)a. above. This evidence or application for waiver shall be submitted with the development application; if not thus submitted, then the development application shall be deemed incomplete. The city shall require this evidence or an application for waiver, as described in subsection (2) below to accompany the review of the development application by the planning and zoning board, for its recommendation to the city commission. The city commission shall be the final authority to grant or deny said waiver application.
 - (2) Any developer or owner subject to the requirements of this section may apply to the city, in a form specified by the city and accompanied by the payment of a waiver application fee seeking to be relieved of the requirements of this division. This waiver application must be submitted to the city prior to the time specified in subsection (1) above. If the developer or owner claims that technical reasons are the basis for the waiver application, the application shall contain a detailed statement by a state licensed professional engineer, qualified with respect to utility issues, explaining why, in the professional engineers professional opinion, it is technically infeasible to locate such utilities underground. The city engineer and the development services director shall review such application and shall make a recommendation to the planning and zoning board. The planning and zoning board shall have the authority to recommend granting or

denying a waiver in the overall recommendation to the city commission. The city may grant a waiver if the application is supported by information detailing justifiable reasons for not pursuing the subject undergrounding, including, by way of example and not limitation, technical infeasibility or impracticability, practical infeasibility or impracticability, or costs outweigh perceived benefits, as determined by the city.

- (3) If a waiver is granted, a dollar amount equal to the cost of placing the utilities underground as determined by an estimate established by the relevant utilities and as agreed upon by the city, may be required to be paid into the city's underground utility fund, prior to the development permits being issued.

(Ord. No. 2005-032, § 2, 12-22-05; Ord. No. 2008-005, § 2, 2-14-08; Ord. No. 2010-023, § 2, 10-28-10)