

AN ORDINANCE to amend Chapter 39A by adding thereto a new subtitle numbered Article I, entitled New Lines and Pipes, to amend and reordain the introductory clause of Section 39A-1, to amend Section 39A-2 by adding thereto a new subsection lettered (g), to amend Section 39A-3 by adding thereto a new subsection lettered (g), to amend and reordain the title and introductory clause of Section 39A-4, to amend and reordain Section 39A-5, to amend portions of Section 39A-6, and to amend Chapter 39A by adding thereto a new article numbered II, entitled Existing Lines and Pipes, all of the foregoing of Chapter 39A of The Code of the City of Alexandria, Virginia, 1963, as amended; which Chapter 39A relates to UNDERGROUND INSTALLATION OF LINES AND PIPES AND THEIR RELATED FACILITIES; which new subtitle Article I relates to NEW LINES AND PIPES; which Section 39A-1 and introductory clause thereof relate to DEFINITION OF CUSTOMER UTILITY SERVICES; which Section 39A-2 relates to CUSTOMER UTILITY SERVICES TO BE PLACED UNDERGROUND; which subsection (g) relates to EXCEPTION TO COST; which Section 39A-3 relates to TRANSMISSION, DISTRIBUTION AND MAIN LINES TO BE PLACED UNDERGROUND; which subsection (g) relates to EXCEPTION TO COST; which Section 39A-4 and title thereof relate to VARIANCE OR WAIVER OF PROVISIONS; which introductory clause thereof relates to COUNCIL PERMITTING LESS THAN FULL COMPLIANCE OR WAIVING PROVISIONS; which Section 39A-5 relates to RELATION TO OTHER LAWS; which Section 39A-6 relates to TRANSITION; and which new Article II entitled EXISTING LINES AND PIPES relates to and REQUIRES PUBLIC SERVICE COMPANIES, THE CITY OF ALEXANDRIA, AND PERSONS TO REMOVE CERTAIN EXISTING OVERHEAD LINES AND PIPES AND THEIR RELATED FACILITIES AND INSTALL THEM UNDERGROUND IN DISTRICTS TO BE DETERMINED BY THE CITY, ESTABLISHES REGULATIONS FOR REMOVAL AND INSTALLATION AND PRESCRIBES PENALTIES FOR VIOLATIONS.

WHEREAS, the City Council of Alexandria, Virginia previously passed an ordinance requiring new lines and pipes to be installed underground; and

WHEREAS, the City Council desires to require that existing overhead lines and pipes be removed and installed underground throughout the city as soon as practical; and

WHEREAS, the City Council recognizes that such removal and installation would be impractical if required immediately; and

WHEREAS, the City Council believes that an orderly and systematic method of removing existing overhead lines and pipes and placing them underground throughout the city in stages is in the best interest of the public health, safety and welfare; and

WHEREAS, the City Council is of the opinion that any public service company operating beyond the period of time for which rights and privileges were granted under a franchise granted by the city, should, as a condition of said public service company's continued use of public rights of way, pay the total cost of removing overhead lines and pipes and installing the lines and pipes underground; therefore

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 39A of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended by adding thereto beneath the title a new subtitle to read as follows:

Article I. New Lines and Pipes.

Section 2. That the introductory clause of Section 39A-1 of Chapter 39A of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended and reordained to read as follows:

As used in this \* article, the words "customer utility services" shall have the following meaning unless the context otherwise indicates:

Section 3. That Section 39A-2 of Chapter 39A of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended by adding thereto a new subsection (g) to read as follows:

(g) Notwithstanding subsection (f) above, any public service company furnishing customer utility services beyond the period of time for which rights and privileges were granted under a franchise granted by the city, shall, as a condition of said public service company's continued use of public rights of way, pay the cost of installing all such customer utility services until such time as said company is granted a new franchise by the city.

Section 4. That Section 39A-3 of Chapter 39A of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended by adding thereto a new subsection (g) to read as follows:

(g) Notwithstanding subsection (f) above, any public service company furnishing such facilities installed underground beyond the period of time for which rights and privileges were granted under a franchise granted by the city, shall, as a condition of said public service company's continued use of public rights of way, pay the cost of installing all such facilities until such time as said company is granted a new franchise by the city.

Section 5. That the title and introductory clause of Section 39A-4 of Chapter 39A of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby are amended and reordained to read as follows:

Sec. 39A-4. Variance or waiver of provisions of \* article.

The City Council may permit less than full compliance with or waive the provisions of this \* article for good cause shown, provided:

Section 6. That Section 39A-5 of Chapter 39A of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended and reordained to read as follows:

Sec. 39A-5. Relation of \* article to other laws.

The provisions contained in this \* article shall be considered separate from, supplemental to, and additional to the provisions contained in Chapter 7, Chapter 30, Chapter 34, Chapter 42 and elsewhere in this Code or other city ordinances. Nothing contained in this \* article shall excuse any person from compliance with all other applicable provisions of this Code or other City ordinances. In the event of a conflict between any provisions of this Code or other city ordinances, the provisions of this \* article shall control. Notwithstanding the above, nothing herein shall be construed to amend any provision of any franchise granted by the city.

Section 7. That Section 39A-6 of Chapter 39A of The Code of the City of Alexandria, Virginia, 1963, as amended, be amended by deleting therefrom the word "chapter" wherever it appears in the section and inserting in place thereof wherever deleted the word "article".

Section 8. That Chapter 39A of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended by adding thereto a new article numbered II to read as follows:

Article II. Existing Lines and Pipes.

Sec. 39A-7. Definitions.

Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms or similar terms shall, for the purposes of this article, have the meanings indicated in this section.

Customer utility service. All those poles, towers, wires, lines, cables and appurtenant equipment located between the distribution lines and the wall of the building or structure occupied or intended to be occupied by a customer in the case of any service such as electricity, telephone, telegraph, cable television, traffic control, fire alarm or police communication and all those conduits, pipes and appurtenant equipment located between the main and the wall of the building or structure occupied or intended to be occupied by a customer in the case of any service such as gas, water, steam or petroleum.

Affected property. A parcel of real property to which customer utility service is provided within an underground district.

Underground district. Any area in the city described in an ordinance adopted pursuant to the provisions of this article.

Main lines and pipes. Poles, towers, wires, lines, cables, conduits, pipes, mains and appurtenances used or intended to be used to transmit or distribute any service such as electric current, telephone, telegraph, cable television, traffic control, fire alarm, police communication, gas, water, steam or petroleum, whether or not on the streets, alleys, or other public places of the city.

Sec. 39A-8. Designation of underground districts  
by ordinance.

The Council may, from time to time, call public hearings to designate underground districts in which overhead customer utility services and overhead main lines and pipes should be removed and installed underground.

Prior to any such public hearing the city manager shall prepare a report which shall be presented and considered at the public hearing. In preparing any such report the city manager shall consult with affected public service companies and city departments. Such report shall include:

(a) The extent of participation by the public service companies, the owner of the affected property and the city.

(b) The total estimated cost.

(c) The estimated time required to complete such removal and underground installation.

The city manager also shall suggest one or more suitable underground districts.

Subsequent to any such public hearing the Council may, by ordinance, designate one or more underground districts and order overhead customer utility services and overhead main lines and pipes within such district removed and installed underground. Such ordinance shall include a description of the area comprising the underground district and shall fix the time within which such removal and underground installation shall be accomplished and affected property must be ready to receive underground service. A reasonable time shall be allowed for the removal and installation, having due regard for the availability of labor, materials, equipment, costs and disruption within the underground district.

Sec. 39A-9. Overhead customer utility services and main lines and pipes - unlawful to maintain.

Whenever the Council by ordinance designates an area of the city an underground district as provided in Section 39A-8, it shall be unlawful for any person or public service company to erect, construct, place, keep, maintain, continue, employ or operate any overhead customer utility service or overhead main lines and pipes in such underground district after the date when overhead customer utility service and overhead main lines and pipes or related facilities are required to be removed by the ordinance.

Sec. 39A-10. Disconnection of customer service for violation.

Whenever customer utility service has not been installed underground or the affected property is not ready to receive underground service in compliance with the ordinance enacted pursuant to Section 39A-8, the public service company furnishing service to said property is authorized to disconnect such service until such time as the affected property is in compliance.

Sec. 39A-11. Costs.

The cost of removing overhead customer utility service and overhead main lines and pipes and installing customer utility service and main lines and pipes underground shall be paid as agreed between the city and the parties responsible for such removal and installation or in the absence of such agreement, as determined or approved by the State Corporation Commission.

Sec. 39A-12. Exceptions.

This article shall not apply to the following:

(a) Equipment such as electric distribution, transformers, switch-gear, meter pedestals, telephone pedestals, terminals and other similar equipment which is normally installed above ground in accordance with accepted utility practices for underground distribution systems may be so installed.

(b) Meters, service connections, and similar equipment normally attached to the outside wall of the premises it serves may continue to be so installed.

(c) Temporary overhead customer utility service and overhead main lines and pipes required for construction purposes.

(d) Temporary overhead customer utility service and overhead main lines and pipes required for emergencies.

Sec. 39A-13. Variance or waiver of provisions of article.

The City Council may permit less than full compliance with or waive the provisions of this article for good cause shown, provided:

(a) Written application is made.

(b) A public hearing is held.

(c) The decision is made by a majority vote of the entire membership of City Council.

Section 39A-14. Relation of article to other laws.

The provisions contained in this article shall be considered separate from, supplemental to and additional to the provisions contained in Chapter 7, Chapter 30, Chapter 34, Chapter 42 and elsewhere in this Code or other city ordinances. Nothing contained in this article shall excuse any person from compliance with all other applicable provisions of this Code or other city ordinances. In the event of a conflict between any provisions of this article and any provisions of this Code or other city ordinances, the provisions of this article shall control. Notwithstanding the above, nothing herein shall be construed to amend any provisions of any franchise granted by the city.

Sec. 39A-15. Penalties.

Any person or public service company violating the provisions of this article or any ordinance adopted pursuant to Section 39A-8 of this article shall upon conviction thereof be punished by a fine of not more than five hundred dollars or by imprisonment not exceeding six months, or both, for each violation. Each day that prohibited conditions are maintained or allowed to be maintained shall constitute a separate offense. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue.

Section 9. That this ordinance shall be published in a newspaper of general circulation published in the city not later than five days following its introduction together with a notice containing the time and place for a public hearing. The clerk of the council shall note the date of introduction and first reading, the date of publication, the date of the public hearing, and the date of the second reading and final passage in the minutes of the meeting. This ordinance shall become effective the date of its final passage.

Charles E. Beatley, Jr.  
Mayor

FINAL PASSAGE: NOVEMBER 23, 1971