

ORIGINAL

1297-ORD
09/27/12

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6076

AN ORDINANCE amending Chapter 14.30, Section 14.30.185 of the Bellevue City Code (relocation of private utility companies' facilities in the public right-of-way) to address the relocation of facilities for City or other public projects in the right-of-way.

WHEREAS, the Right-of-Way (ROW) Use Code (Chapter 14.30) was adopted in 1985 via Ordinance No. 3553 and amended in 1997 (Ordinance No. 5009); and

WHEREAS, the ROW Use code provides the basis for the City to issue permits for short and longer-term uses of the ROW, as well as to enter into ROW use agreements with utility providers that do not have franchises with the City; and

WHEREAS, Section 14.30.185 was added to address the requirement that private utilities in the ROW, subject to ROW use agreements and permits, relocate their facilities, at no cost to the City, where those facilities are in conflict with planned improvements to public utilities and/or transportation improvements; and

WHEREAS, the requirement for relocation at no cost to the City applies only where the City will ultimately own or operate the planned utility or transportation improvement; and

WHEREAS, this language is not consistent with similar relocation provisions in the franchise code (Chapter 14.20) and is so narrowly tailored that it does not apply to improvements planned and constructed by other public agencies; and

WHEREAS, this amendment applies to only ROW use agreements and does not apply to franchise agreements issued pursuant to BCC 14.20; and

WHEREAS, if a franchise agreement has been entered into pursuant to BCC 14.20, the terms of the mutually agreed upon franchise agreement shall govern; and

WHEREAS, this amendment is not intended to prevent a utility company from exercising its right to seek relocation expenses when there is funding available from federal or other similar funding sources; and

WHEREAS, the intent of this amendment is to ensure that public agencies and taxpayers do not bear the cost of relocating these private facilities when they are in the public ROW; and

WHEREAS, amending the ROW Use code Section 14.30.185 to apply to public projects in the right of way that will be owned or operated by any public entity,

and requiring the facilities to be relocated at no cost to such public agency will carry out this intent; now, therefore,

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BELLEVUE,
WASHINGTON DOES ORDAIN AS FOLLOWS:

Section 1. Bellevue City Code Section 14.30.185 is hereby amended as follows:

14.30.185 Relocation.

Whenever a public entity undertakes or approves the construction of any sewer, water or storm drainage line (eight-inch inside diameter or larger) or other street improvement project including, without limitation: installation of traffic signals, street lights, I-NET system, sidewalks and pedestrian amenities, wherein the facility so constructed or approved is or shall become, by gift, transfer, dedication or otherwise, a public facility owned, maintained or operated by a public entity, and such project necessitates the relocation of any utility company's then existing facilities, the public entity shall:

- A. Provide such utility company written notice requiring such relocation at least 90 days prior to the commencement of such improvement project; and
- B. Provide such utility company with copies of pertinent portions of the plans and specifications for such street improvement project so that such utility company may relocate its facilities to accommodate such street improvement project. No later than 80 days after receipt of such notice and plans and specifications, such utility company shall complete the relocation of its facilities so as to accommodate such improvement project, at no charge or expense to the public entity, at least 10 days prior to commencement of construction of such improvements; provided, that such 80-day notice period shall be extended by mutual agreement if necessitated by occurrence of an "act of God."
- C. If the public entity requires the subsequent relocation of such utility company's facility within five years of the date of relocation of the same facility pursuant to this section, the public entity shall bear the entire cost of such relocation.
- D. As to any relocation of a utility company's facilities wherein the cost and expense thereof is to be borne by such utility company in whole or in part, in accordance with this section, such utility company may, after receipt of written notice requesting relocation, submit to the public entity written alternatives to such relocation. Upon receipt, the public entity shall evaluate such alternatives and shall timely advise such utility company in writing if one or

more of the proposed alternatives are suitable to accommodate the work which would otherwise necessitate relocation of such facilities. If so requested by the utility company, the public entity shall give each alternative proposal full and fair consideration. In no case shall the public entity arbitrarily reject reasonable alternatives. In the event that the public entity is satisfied, after due consideration, that there is no other reasonable alternative, the utility company shall relocate its facilities as otherwise provided in this section. The public entity's determination that there is no reasonable alternative shall be conclusive and shall not be subject to any administrative appeal process.

E. The provisions of this section applies to right of way use agreements issued pursuant to this chapter and does not apply to franchise agreements issued in accordance with BCC 14.20.

Section 2. This ordinance shall take effect and be in force five (5) days after passage and legal publication.

Passed by the City Council this 1st day of October, 2012 and signed in authentication of its passage this 1st day of October, 2012.

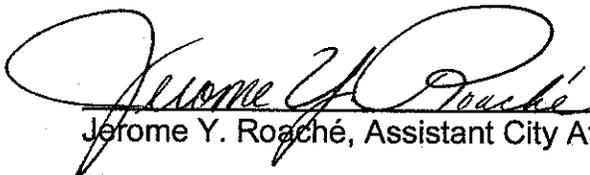
(SEAL)



Conrad Lee, Mayor

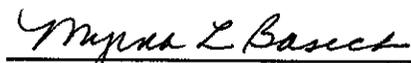
Approved as to form:

Lori M. Riordan, City Attorney



Jerome Y. Roaché, Assistant City Attorney

Attest:



Myrna L. Basich, City Clerk

Published October 4, 2012