

**CITY OF BOARDMAN
ORDINANCE __-2025**

**AN ORDINANCE TO APPROVE AN AMENDMENT TO THE BOARDMAN
MUNICIPAL CODE ADDING CHAPTER 13.12 UNDERGROUND WIRING
CONTROL DISTRICT**

WHEREAS, since 1976, the City of Boardman has required all utilities in the City to be installed underground pursuant to the Underground Wiring Control District established in what is now Boardman Municipal Code Chapter 13.12; and

WHEREAS, the City desires to maintain the Underground Wiring Control District with updates to clarify the obligations of developers, property owners and utilities; and

WHEREAS, the City has enacted Ordinance __-2025, adopting a new Chapter 12.16 of the Boardman Municipal Code, relating to utility facilities in the rights-of-way, which requires related conforming amendments to Chapter 13.12; and

WHEREAS, the City finds it is in the public interest to enact the updates to the Municipal Code as set forth in this Ordinance.

NOW THEREFORE, THE PEOPLE OF BOARDMAN DO ORDAIN AS FOLLOWS:

Section 1. Boardman Municipal Code Chapter 13.12 shall be amended as provided in Exhibit A.

Section 2. This Ordinance shall become effective on the 30th day after its adoption.

Passed by the Council and approved by the Mayor this ____ day of _____, 2025.

Paul Keefer – Mayor

Amanda Mickles – City Clerk

EXHIBIT A

13.12.010 - Findings.

The council finds that a program for the establishment of an underground wiring control district is highly desirable to beautify the city and to promote its orderly development; that the underground wiring shall be required for installation of underground utility facilities in the city, except as hereinafter provided; that such a program is in the public interest and will allow property owners who must provide on-premises facilities to make such plans as are necessary to take the underground service; that such a program is in conformity with ORS Chapter 221, which provides that the city may prescribe by ordinance the character of service to be furnished by any public utility and the conditions upon which such utility may be permitted to occupy the ~~streets-public rights-of-way~~ and public property within the city; and that such an underground wiring program is necessary in such area in order to protect and promote the public health, safety and welfare.

(Prior code § 3-2.1)

13.12.020 - Boundaries.

The underground wiring control district shall mean and include the entire city of Boardman.

(Prior code § 3-2.2)

13.12.030 - Overhead wires prohibited.

It is unlawful for any person to erect, construct or maintain on or over the surface of any of the ~~streets-public rights-of-way, as defined in Boardman Municipal Code 12.16.030~~, in the underground wiring control district any wires, poles, cables, appliances, or apparatus of any kind, on, through, or by means of which electric current is transmitted or which is used for operating to provide any ~~telephone, telegraph, telecommunications, television, cable television, cable, messenger, or other communications service~~, electric light or power, ~~system~~ or for any other purpose, ~~excepting~~ as hereinafter provided specifically and by variance procedures.

(Prior code § 3-2.3)

13.12.040 - Subdivision utilities.

A. Wire utilities to subdivisions and lots ~~which~~, in addition to being underground as ~~above~~ provided ~~for in section 13.12.030~~, shall be in common trenches and at the rear of lots where practicable, and where easements are provided by the subdivider or property owner of not less than ten (10) feet in width for installation and maintenance. ~~That~~ The property owner and possessor of the property shall be obligated to maintain the easement and shall be prohibited from placing permanent improvements and improvements that would interfere with ~~the~~ access to the utilities for service and maintenance.

Commented [NW1]: Is this the current practice and what you'd like to do going forward?

B. It is the duty of the city building inspector to enforce the building restrictions on the utility easement ~~right of way~~. Should the enforcement of the building restrictions on the ~~right of way easement~~ be impractical, ~~such substitution shall be sufficient for the developer or utility to~~ may obtain a variance ~~upon applications provided in section 13.12.070~~.

(Prior code § 3-2.3A)

13.12.050 — Utilities in Rights-of-Way Application for permit.

~~The provisions of this Chapter shall apply to Any every person owning granted a franchise, license or privilege to erect, construct, or maintain any wires or facilities in the public rights-of-way or on public property. wires, cables, poles, appliances or apparatus on, over, or by means of which electric current is transmitted or used for any purpose on, over, and along any of the streets, public property, or parts thereof in the underground wiring control district, shall file with the clerk of the city a written application for a permit to install and maintain such wires, cables, appliances, and apparatus in conduits, subways or trenches beneath the surface of the streets and public property, or such parts thereof as may be required, together with an agreement to promptly repave and repair any of the streets, public property, or portions thereof that may be disturbed or undermined by such applicant, either upon original construction or installation of wires underground or upon repairing, altering, or maintaining the same thereafter.~~

(Prior code § 3-2.4)

13.12.060 — Designation of space by council. —

~~Upon the filing of such application, the council will designate that portion, or those portions, of space in such streets, public property, or parts thereof in the underground wiring control district that such applicant shall use. No person shall have any right or privilege to use any part or parts of such streets or public property in the district except as designated by the council.~~

(Prior code § 3-2.5)

13.12.070 — Filing plans and specifications. —

~~Within a reasonable time after space in such streets or public property has been designated, such applicant shall file with the clerk for approval by the council, plans and specifications for a system of underground conduits, subways or trenches for wires, cables, and appliances, including the necessary manholes, service boxes and transformer enclosures, and in addition thereto shall file a map showing the general route and location of such conduits, subways or trenches.~~

(Prior code § 3-2.6)

13.12.080 — Permits. —

~~If the plans, specifications, and map of the general route of underground utility installations are satisfactory, the council will approve the same and thereupon issue to such applicant a permit to enter upon the streets, public property, or parts thereof, in the~~

Commented [NW2]: Should this be “shall be entitled to” a variance? The current language indicate it’s a “shall” so that the variance must be given. I used “may” with the idea that they need to go through the process because it is not clear what “impractical” means or who decides. The implication is that it’s the building inspector, but I think there’s room in the current language for a utility or developer to argue that they think it is impractical and want a variance.

~~district to make such excavation therein as may be necessary for the construction of conduits, subways or trenches, the laying of wires, cables and appliances therein, and for building manholes or service boxes underground within the space theretofore designated for the applicant.~~

~~(Prior code § 3-2.7)~~

~~13.12.090 — Repair of streets. —~~

~~Upon the installation and completion of such underground system of wires, cables and appliances, the person installing the same shall put the surface of the parts of such streets or public property which were disturbed in as good order and condition as the same were prior thereto.~~

~~(Prior code § 3-2.8)~~

~~13.12.100 — Excavation and restoration of streets. —~~

~~A. It is unlawful to make any excavation in any of the streets in the district for the purposes mentioned herein without such permit from the council. However, in case of an emergency, when service to subscribers or customers is interrupted by accident and immediate repairs are necessary, such repairs may be begun without such permit after notice to the department of public works. B. All excavations for the purpose of placing wires or cables under such streets and public property, or for the purpose of making repairs, additions and changes thereto, and all work upon pavements and the foundations thereof where excavations are made shall be under the supervision of the department of public works and only after notice to such department.~~

~~(Prior code § 3-2.9)~~

~~13.12.110 — Use of sidewalk space and building fronts.~~

~~Any person owning or operating underground wires, cables, conduits, or subways in compliance with this chapter may connect the same at the side lines of the street, and to that end may use such space under the streets and sidewalks as may be necessary or convenient, and may also have access to all area ways under sidewalks, and may place and maintain such wires, cables, and appliances in proper conduits in and through such area ways or spaces. If wires or cables are run up the sides or in front of any building, such wires or cables shall be placed in proper tubes so as to prevent danger to life or property. No wire, cable, or the supports therefor shall cross any window or opening in any building.~~

~~(Prior code § 3-2.10)~~

~~13.12.120 — Location maps. —~~

~~Every person to whom a permit has been granted pursuant to this chapter shall, upon completion of the installation of underground wires, cables, and appliances, file with the clerk of the city a map showing the location of the conduits, subways, trenches, wires, cables, manholes, and service boxes under such streets, public property or parts thereof in the underground wiring control district. The clerk shall thereupon record such~~

~~maps in a book kept for such purpose and shall enter in appropriate indexes the name of the owner of such conduits or subways with a reference to the volume and page where such map is recorded.~~

~~(Prior code § 3-2.11)~~

13.12.060430 - Exemptions.

The provisions of this chapter with respect to underground utility construction or installation shall not apply to the following:

A. Wires, poles and appliances for lighting the ~~streets-public rights-of-way~~ of the city under contract with the city, or under private contracts, connected with wires or cables in such conduits, subways, or trenches, but all such wires for street lighting above the surface of the ~~public rights-of-way streets~~ shall be placed inside or on the outside of poles used in connection with such street lighting and shall be connected underground from the foot or base of such respective poles directly with the nearest wires or cables placed in such conduits, subways or trenches. Such wires for street lighting if put on the outside of such poles shall be placed in proper tubes so as not to be dangerous to life or property, excepting, however, wires above the ground connecting such poles and the wires thereof with the electric lamp, or lamps, used on such pole.

B. Wires, cables and appliances for electric signs, advertisements, and decorative lighting, connected with wires or cables in such conduits, subways or trenches; but all such wires for electric signs, advertisements, and decorative lighting shall be carried from or connected with the building. If such wires are placed on the sides or front of any such building, they shall be placed in proper tubes so as not to be dangerous to life or property, and such wires shall be connected underground from the foundations or basement of such respective buildings directly with the nearest wires or cables placed in such conduits, subways or trenches. No such wire for electric signs, advertisements, or decorative lighting shall cross any ~~street-public rights-of-way~~ above ground.

C. Enclosed electric transformers and pedestals used in connection with underground wiring and mounted on the surface of the ~~streets-public rights-of-way~~ and public property, provided that the city reserves the right to approve the location of such facilities and to require underground placement where technically feasible.

D. Those installations of utilities ~~presently completed as of the effective date providing for overhead wiring shall not be subject to the provisions~~ of this chapter. However, this chapter does not preclude such ~~installations~~ from being subject to future ordinances.

~~E. Feeder Lines. That line that serves the system but not a specific customer. Feeder lines to be placed underground by council order shall be put underground at the expense of the city by crediting franchise fees in the amount of the actual cost differential between overhead and underground installation.~~

~~(Prior code § 3-2.12)~~

13.12.070440 - Variances.

A. Variances with the provisions of this chapter for subdivisions and lots may be allowed upon written application for the same being first made to the city planning commission. ~~Within ten (10) days thereof~~ the city planning commission shall then make a

Commented [NW3]: Does 10 days work? That seems pretty short.

recommendation to the city council concerning the requested variances. It shall then be the duty of the city council to grant or deny a request for variance on or before the next regular council meeting.

B. Variances for subdivisions and lots shall be allowed upon a finding by the city council that:

1. The topography is such, due to terrain, rock, etc., as to make compliance physically impractical;
2. It is economically not feasible;
3. The size, shape or design of the plat or subdivision does not lend itself to underground or rear lot placement; or
4. The utility lines are of such voltage, size or capacity that common trenching, underground or back lot installation is not feasible.

C. Variances for utilities that are not installed as part of a subdivision, lot, or new development shall be considered through the administrative review process provided in Boardman Municipal Code Chapter 12.16.

(Prior code § 3-2.12A)

13.12.~~080450~~ - Joint use of conduits permitted.

Nothing in this chapter shall be construed to prevent or impair any agreement between or among any persons affected by this chapter designed to provide for joint ownership, control, or use of conduits, subways or trenches.

(Prior code § 3-2.13)

~~13.12.160 – Control of electrical currents. _____~~

~~It is the duty of all persons using or employing electrical currents to provide and put in use such means and appliances as will, as far as practicable, control and effectually contain such currents in their proper channels and on their own wires, cables and other structures so as to prevent injury to pipes and other structures belonging to the city or to any other person; to repair and renew such means and appliances; and from time to time to change and improve the same as may be necessary to accomplish such purpose, all at his or her charge and expense, and at his or her own risk, selecting and adopting such means and appliances as shall prevent injury to the pipes and other structures belonging to the city as aforesaid, or to any other person.~~

~~(Prior code § 3-2.14)~~

13.12.~~090470~~ - Traffic signal installations.

The provisions of this chapter relating to underground wiring shall not be applicable to traffic signal installations made and maintained by the city. When deemed appropriate by the city engineer, agreements may be made with private property owners permitting attachment of such traffic signal installations to privately owned buildings, and the council may direct entry into or to approve agreements relating thereto, such agreements having first been approved as to form by the city attorney.

(Prior code § 3-2.15)

13.12. ~~100480~~ - Violation.

Violation of this chapter shall constitute the creation of a nuisance and the procedure for abating the same and the penalties shall be as provided in Sections 8.04.2~~190~~ through 8.04.2~~320~~ of this code.

(Prior code § 3-2.16)