

Chapter 30  
Utilities

**Chapter 30  
UNDERGROUND UTILITIES**

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**30.01 Definitions**

As used in this chapter, the words and phrases hereinafter defined, shall have the following meanings:

A. "Poles, overhead wires, and associated overhead structures" means and includes, but is not limited to, poles, towers, supports, wires, conductors, guys, stubs, platforms, cross arms, braces, line transformers, insulators, cut outs, switches, communication circuits, appliances, attachments and appurtenances located above ground, upon, along, across or over the streets, alleys and easements, and used in supplying electric, communication or similar or related service.

B. "Feeder Line" means that portion of an electrical circuit which provides power from a power substation and which has a rated capacity of three thousand (3,000) KVA or greater.

C. "Trunk Line" means those utility lines within a distribution system with an 0.75 inch diameter.

**30.02 Underground Installation Required**

From and after the effective date of this ordinance all persons and utility providers shall place all or any portion of their wires and cables underground in subsurface conduits or other suitable and acceptable method of underground installation as meets existing safety standards prescribed by the Governing Body, based upon the National Electric Code (NEC) whenever hereinafter installing or replacing same for electric, communication or other similar or associated service in the following situations:

A. As part of new construction of a structure; or

B. Construction of an expansion greater than fifty (50) percent of the square footage of the existing structure; or

C. Reconstruction of an existing structure damaged greater than fifty (50) percent of its fair market value as set by the Sedgwick County, Kansas Appraiser.

### **30.03 Variances and Exemptions**

A. Temporary Variances. The city may grant special permission in cases where temporary electrical power or communication service is reasonably required for emergencies or for building construction purposes, or for other temporary purposes, to erect, construct, install or maintain poles, wires and other overhead structures for a period not to exceed one hundred twenty (120) days. However, in the event the purpose for which the temporary exception referred to herein as granted cannot be completed within the period herein provided, because of a shortage of material, a natural disaster, strikes or other circumstances beyond the control of the parties, or by unusual hardships, then upon written request to the city planner, the time may be extended an additional temporary period or periods necessary to allow completion of such construction.

B. Permanent Variances. Persons or utility providers required to place cables and wires underground pursuant to Section 30.02 of this chapter, may appeal by submitting a written request for review to the city: The city may grant full or partial relief based on good cause such as the following factors:

1. Character of surrounding neighborhood and whether wires and cables are underground.
2. Extremely high cost of placing the wires and cables underground in relation to the proposed development.
3. Potential of serious environmental or aesthetic damage such as the removal of significant numbers of trees.

C. Exemptions. The provisions of this chapter shall not apply to any of the following installations:

1. All electric power lines rated at or above "feeder" line class.
2. All telecable, communication or other similar or related service lines rated at or above "trunk" line class.
3. Existing poles, overhead wires and associated overhead structures, when part of a continuous line, or existing services to individual properties from such existing overhead line. All future extensions or service connections from these lines shall be placed underground. Nothing in this chapter shall prevent the replacement of poles, overhead wires and associated overhead structures on these lines when necessary for the

purpose of maintaining the line or upgrading the capacity thereof, or, in the case of single phase lines, the addition of the necessary facilities to three (3) phasing of the line;

4. Radio and television antennas;

5. Existing overhead lines attached to the exterior surface of a building by means of a bracket or other fixture and extending from one (1) location on the building to another location on the same building, or to an adjacent building without crossing a property line;

6. Poles used exclusively for street or area lighting or for traffic control facilities;

7. Service terminals, transformers, regulators, meters or other on and above ground facilities normally used with and as a part of an underground distribution system;

8. Electric substations and the accompanying equipment and apparatus necessary to provide adequate electric service.

### **30.04 Special Exception**

Notwithstanding any other provisions of this chapter, the governing body may grant special exceptions on a permanent or temporary basis to the provisions hereof on such terms as the governing body may deem appropriate in cases of emergency or unusual circumstances to any party to erect, construct, install, maintain, use or operate poles and overhead wires and associated overhead structures.

### **30.05 Hold Harmless**

The utility, its successors and assigns, shall save and hold harmless the City of Cheney, Kansas, from all liability, costs, damages, and expenses of every kind, for the payment of which the city may become liable to any person, firm or corporation by reason of any negligence by the utility in the construction, maintenance and operation of its utility system within the City of Bel Aire.

### **30.06 Underground Wiring Prohibited Where**

The installation, placement or maintenance of any and all underground electrical or communication wiring or associated structures or facilities, whether they be above or underground, shall be prohibited in all floodplains, flood prone areas, drainage easements, major drainageways, or any other area where the possibility of standing water exists. Where electrical or communication service wiring must cross such areas, easements or ways, they must be elevated and so installed as to be reasonably free from flood or storm water runoff damage.

### **30.07 Penalty for Violation**

Any person or utility who shall erect, construct, place or operate any such pole, overhead wire or associated overhead structure in violation of this chapter, or who shall otherwise fail to comply with the provisions of this chapter, shall be guilty of a misdemeanor

and, upon conviction thereof, shall be punishable by a fine not to exceed five hundred dollars (\$500.00) for each offense.