

Chapter 23

POLES, WIRES AND CONDUITS*

Art. I. In General, §§ 23-1—23-33

Art. II. Underground Conduits, §§ 23-34—23-51

**ARTICLE I.
IN GENERAL**

Sec. 23-1. Inspector of wires—Commissioner of Inspectional Services designated; duties generally.

The division of inspection of wires is established to be under the charge and supervision of the commissioner of inspectional services who may appoint an inspector of wires and such deputy inspector or inspector(s) as are required. The inspector of wires and such deputy inspectors, if any, shall have the powers and perform the duties required of such officers by law or by the ordinances of the city. The inspector of wires and such deputy inspectors, if any, shall have supervision of all electric and other wires erected in, upon, over or under any street or building and of all poles supporting wires of lamps and streetlights; all electric wire systems or other electric systems owned by the city except as provided in section 10-1. The inspector and such deputy inspectors, if any, shall require all persons and corporations owning or operating wires to conform to the conditions and requirements imposed by law. (Rev. Ords. 1973, § 16-1; Ord No. S-301, 2-1-88)

State law reference—Inspector of wires, G.L. c. 166, § 32

Sec. 23-2. Same—Right of access; permission required to connect certain wires to outside circuit.

The inspector of wires and each deputy inspector shall have access at all reasonable times to all wires and apparatus which are intended for carrying electric light, heat or power current. No person shall arrange, affix or change any such wires or apparatus without giving the inspector of wires reasonable notice and opportunity to inspect such wires and their arrangement and fixtures before the same are covered or enclosed. No person shall connect such wires with an outside circuit which crosses or runs along, over or under any street or way without written permission having first been obtained from the inspector having jurisdiction thereof. (Rev. Ords. 1973, § 16-2)

Sec. 23-3. Pipes to be installed in buildings before wires placed.

No person shall place wires which are intended for carrying electric light, heat or power current in any building in process of construction until all gas, steam, sewer, water and furnace pipes have been placed in proper position. (Rev. Ords. 1973, § 16-3)

Sec. 23-4. Installation of wires to carry current into buildings.

Whoever proposes to place wires designed to carry a current of electricity within a building, other than low voltage currents not exceeding ten (10) volts and not attached to any circuit carrying one hundred and ten (110) volts, or for an appliance capable of being readily moved where established practice or the conditions of use make it necessary or convenient for it to be detached from its source of current by means of a flexible cord and attachment plug, shall give notice thereof to the inspector of wires before commencement of the work of installation and shall

***Cross references**—Buildings, Ch. 5; fire protection and prevention, Ch. 10; streets and sidewalks, Ch. 26

not turn the current onto the wires that are to be used for electric lighting, heating or power until permission to do so has been given by the inspector. (Rev. Ords. 1973, § 16-4)

Sec. 23-5. Preliminary review by commissioner of public works.

(a) No petition for permission to erect poles, piers, abutments, conduits or other fixtures upon, along or under any public ways or across any public grounds shall be heard by the city council until the commissioner of public works has been given the opportunity to review the plans and petition and comment thereon.

(b) Persons seeking such permission shall deliver a copy of such a petition to the commissioner prior to submitting it to the city council and shall include a copy of the comments of the commissioner upon filing such a petition with the city council.

(c) Notwithstanding the foregoing requirement, in the event of delay or failure of the commissioner to provide comments on such a petition within thirty (30) days from the date that the petition was received by the commissioner, the petition may be filed with the city council if accompanied by a sworn statement setting out the date that the petition was delivered to the commissioner.

(Ord. V-280, 2-22-00)

Sec. 23-6. Petitions and plans for permission to erect poles, etc., along street.

Every petition presented to the city council for permission to erect poles, piers, abutments or other fixtures upon or along any public ways or across any public grounds shall refer to and shall be accompanied by a plan showing the exact location of each pole, pier, abutment or other fixture proposed to be erected, and of the trees and other objects or structures in the immediate vicinity thereof and of the lines or wires such poles, piers, abutments or other fixtures are designed to support. Such plan shall be of such size and drawn to such scale as may be prescribed by the city engineer. The expense of the notice required to be given of the hearing upon such petition shall be borne by the petitioner. No plan shall be required to accompany a petition for the attachment of wires to posts, piers, abutments or other fixtures to which wires have been lawfully attached at any time prior to the filing of such petition. (Rev. Ords. 1973, § 16-5; Rev. Ords. 1995, § 23-5)

Sec. 23-7. Acceptance of permission to erect poles, etc., along streets.

(a) Whenever permission shall be granted by the city council to erect and maintain poles or to construct conduits or other fixtures in the public ways, bridges or grounds to support or carry lines or wires for the transmission of intelligence by electricity or for the transmission of electricity, the person to whom such permission is granted, within thirty (30) days from the date of the order granting such permission, shall file in the office of the city clerk a written acceptance of the location of such poles, conduits or other fixtures, and the conditions upon which their permission has been granted and in default thereof such grant shall be null and void.

(b) Such person may at his election file in the office of the city clerk a general acceptance of the locations of poles, conduits or other fixtures, and conditions upon which permission may be granted by the city council from time to time to such person. Such acceptance shall constitute an acceptance of each of such orders, unless such person shall advise the city clerk in writing, within thirty (30) days from the date of the order, of his refusal to accept the locations and conditions of a specific order. (Rev. Ords. 1973, § 16-6; Rev. Ords. 1995, § 23-6)

Sec. 23-8. Height of wires and poles.

Except by the permission of the city council, no wire or other line for the transmission of electricity shall be attached to any pole, tree, pier, abutment or other fixtures in, nor run along or across, any public way or grounds at a height less than twenty (20) feet from the ground, and except by such permission no pole more than forty (40) feet

high shall be erected for the support of such wires and lines. (Rev. Ords. 1973, § 16-7; Rev. Ords. 1995, § 23-7)

Sec. 23-9. Specifications for poles and manner of installing; replacements.

All poles erected and maintained in the public ways or grounds shall be of steel or of sound, well formed and smooth hard pine, chestnut or cypress, subject to the approval of the inspector of wires, and shall not have a curvature of more than one to forty in the length of that portion of the pole above the ground. All poles shall be set in a manner satisfactory to the inspector of wires and shall be kept properly painted by the owners thereof in such colors and manner as the inspector of wires shall direct from time to time. No poles shall be replaced or renewed without the written approval of the inspector of wires as to the kind of poles to be used. (Rev. Ords. 1973, § 16-8; Rev. Ords. 1995, § 23-8)

Sec. 23-10. Reservation on poles for wires of city.

Four (4) feet at the top of every pole erected by permission of the city council shall be reserved, if required, for the use of the fire, police or other telegraph and telephone signal wires belonging to the city, and shall be used exclusively for such municipal purposes. (Rev. Ords. 1973, § 16-9; Rev. Ords. 1995, § 23-9)

Sec. 23-11. Bond required for constructing, maintaining or operating electric lines.

(a) Every person constructing, maintaining or operating a telegraph, telephone or other electrical line in the city shall execute a bond, with surety satisfactory to the mayor, in a penal sum of not less than ten thousand dollars (\$10,000.00), conditioned to indemnify and save harmless the city against all damage, cost, expense and loss whatsoever to which it may be subjected in consequence of the acts and neglect of such persons, their agents, officers and servants, in any manner arising from or growing out of the use and transmission of electricity, the privileges permitted by the city and the construction, maintenance, operation and use of lines, wires, cables, conduits, posts, poles, structures, constructions, fixtures and apparatus. The bond shall also be conditioned to fulfill all agreements with the city, all orders, conditions and obligations imposed by the city council and all obligations and duties required by law or by this chapter and every other ordinance hereafter passed, and all additions and amendments relating thereto.

(b) A new bond of like import, and with new surety, may at any time be required by the city, which new bond shall be a strengthening bond, unless the surety on former bonds is expressly released from further liability by vote of the city council. (Rev. Ords. 1973, § 16-10; Rev. Ords. 1995, § 23-10)

Sec. 23-12. Gathering aerial wires, etc.

All persons conducting telegraph, telephone, electric light or power businesses shall gather and place in aerial cables, lines and wires to the number of fifty (50) or more in any street, according to the direction of the city council, and within such time, in such manner and at such height as may be designated by the city council. (Rev. Ords. 1973, § 16-11; Rev. Ords. 1995, § 23-11)

Sec. 23-13. Pieces of wire in streets, etc.

No person owning, leasing or operating wires, nor any employee thereof, shall leave or permit an unused piece of wire to be left on the surface of any street or sidewalk, or an unused coil or loose end of wire to remain attached to any crossarm or post more than twenty-four (24) hours. (Rev. Ords. 1973, § 16-12; Rev. Ords. 1995, § 23-12)

Sec. 23-14. Abandoned and unmarked wires to be removed.

Every person owning, leasing, maintaining or operating wires shall cut out and remove every wire the use of

which has been abandoned and every wire which is not tagged or marked as required by law, within twenty-four (24) hours after notice from the inspector of wires. In all cases where such person, after such due notice, neglects or refuses to cut out and remove wires abandoned or unprovided with proper tags or marks, the inspector of wires shall remove the same and cause the expense thereof to be collected from the persons as provided by law. (Rev. Ords. 1973, § 16-13; Rev. Ords. 1995, § 23-13)

Sec. 23-15. List of facilities to be furnished inspector of wires upon request.

Every person operating any wires upon, over or under any street or building shall, within fifteen (15) days after request therefor by the inspector of wires, furnish an accurate detailed written statement of the number and locations of its poles, the number of cross-arms on each, the number of wires attached thereto and the locations of all its subways and manholes. The statement shall particularly specify and distinguish each territory wherein power is furnished for the telegraph, the telephone, electric light and electric power and what lamps are arc and what are incandescent, together with full information of the method of operating such wires. (Rev. Ords. 1973, § 16-14; Rev. Ords. 1995, § 23-14)

Sec. 23-16. Further information to be furnished inspector upon request.

Every person owning, leasing or operating any wires within the city shall furnish to the inspector of wires when requested by him, such information as to the kind, size and tested strength of supporting or surface wires, the average volts charged and used, together with such other information as may be considered necessary by him to the faithful and effectual discharge of his duties. (Rev. Ords. 1973, § 16-15; Rev. Ords. 1995, § 23-15)

Sec. 23-17. Fire alarm telegraph and police signal boxes.

No person, except a member of the police or fire department, or of the department for the inspection of wires in the performance of his duty, or a person authorized by such member in the performance of his duty, shall open or attempt to open any of the police signal boxes or any of the signal boxes connected with the fire alarm telegraph, except in case of fire, and no person shall interfere with, break, cut, injure or deface any such box or wire joined to the same or the post or other structure to which it may be affixed; and no person shall post any bill or placard upon such signal box, post or structure. (Rev. Ords. 1973, § 16-16; Rev. Ords. 1995, § 23-16)

Sec. 23-18. Use, maintenance or operation of unsafe conductors, etc.

No person shall use, operate or maintain defective, unsafe or dangerous conductors or appliances for the distribution of an electric current within a building, and the inspector of wires may cause the current to be shut off if the owner or operator of such defective, unsafe or dangerous conductors or appliances fails to remedy the same within a reasonable time after notice from the inspector. (Rev. Ords. 1973, § 16-17; Rev. Ords. 1995, § 23-17)

Sec. 23-19. Employment of outside consultants.

(a) The city council, sitting as the local authority for the issuance of grant of location permits, is authorized to establish reasonable fees to provide the city council with funds to pay for the hiring of outside consultants as needed to carry out the Council's duties and responsibilities in reviewing grant of location applications, as authorized by G.L.c.44, §53G and G.L.c.166, §22 et seq. The fees to be paid by applicants for particular permits and approvals before the city council shall be set out in city council rules and regulations. Such fees shall be reasonable and reflect the actual cost for the services of consultants and in the case of the city council, sitting as the grant of location permitting authority, shall be set by the commissioner of public works, as the designee of the aforesaid city council.

(b) Such fees shall be deposited in special accounts established by the city treasurer in the city treasury and shall

be kept separate and apart from the general funds of the city. A separate bank account need not be established for the fees paid by an applicant for each project. All fees collected may be deposited in a common bank account, provided that a separate accounting of activities and interest is made for each project.

(c) The special account, including accrued interest, if any, shall be expended at the direction of the city council without further appropriation; provided, however, that such funds are to be expended by it solely for the purpose of hiring outside consultants to assist them in carrying out their responsibilities with respect to that particular grant of location petition under the law. The fees may not be used to pay for the services of city employees. Any excess amount in the account attributable to a specific grant of location petition, including any accrued interest, shall be repaid to the applicant or to the applicant's successor in interest upon satisfactory proof of the filing of the final action and decision of the city council with the city clerk, and a final report of said account shall be made to the applicant or to the applicant's successor in interest.

(d) the city council or its designee which has established fees for hiring consultants must choose consultants subject to the city council's own rules and regulations, the city charter, ordinances and the general laws. the city council's rules and regulations shall provide for minimum qualifications of any consultant to be hired, including either an educational degree in or related to the field at issue, or three (3) or more years of practice in the field at issue or a related field.

(e) the city council's rules and regulations must also provide for an administrative appeal of the selected consultant by the applicant paying the fee. in the case of the city council, the rules and regulations shall provide for either reconsideration before the city council, or direct judicial review, if otherwise permitted by law. Any such appeal is limited by law to claims that the selected consultant has a conflict of interest or does not possess the minimum required qualifications.

(f) the required time limits for action upon an application by the city council shall be extended by the duration of the administrative appeal. a decision upon said appeal shall be made by the city council or its designee within thirty (30) days of the filing of the appeal or as soon as practicable. Such an administrative appeal shall not preclude further judicial review, if otherwise permitted by law, on the grounds provided for in subsection (e). In the case of grant of location applications for wireless communications attachments and/or poles, an appeal that delays final action shall be deemed good cause for exceeding any applicable federal presumption of a reasonable time for a final action by up to thirty (30) days.

(g) Failure of the applicant to pay the consultant fee within fourteen (14) days after notice to the applicant shall be grounds for the denial of the application.

(h) If at a later time in the process regarding the subject application/proposal, the city council determines that additional funds are needed for outside consultant services, the city council may provide written notice of said further and/or additional need for such funds in the same manner, and subject to the same provisions and requirements, as set out in Paragraphs (a) through (g) above.

(i) The provisions of this section shall be deemed to be severable. If any of its provisions shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remaining provisions shall continue in full force and effect. (Ord. No. A-107, 04-18-17)

Sec. 23-20. Authorization to Adopt Procedures and Standards for Grants of Location for Wireless Communications Facilities in the Public Ways

(a) In the exercise of its authority under G.L.c.166, §22 and other applicable law, the City Council is hereby authorized to adopt Procedures and Standards governing petitions for grants of location for wireless

communications facilities in the public ways of the City. Such Procedures and Standards shall take into account any applicable state and federal law.

(b) The Procedures and Standards to be adopted pursuant to (a) shall include petition instructions and application forms, petition review procedures and substantive standards governing the review of grant of location petitions. The City Council may consult with City departments in developing these Procedures and Standards. (Ord. No. B-8, 03-05-18)

Secs. 23-21—23-33. Reserved.

ARTICLE II. UNDERGROUND CONDUITS

Sec. 23-34. Application and plan for permission to maintain.

Persons conducting a telegraph, telephone, electric light or power business may construct and maintain underground conduits for cables and wires together with manholes and house connections, and erect and maintain distributing poles at the terminals of conduits and at suitable distributing points in such streets, in such manner, of such shape, size and material, and under such regulations as the city council shall designate upon application. The application shall be accompanied by a plan showing the exact location of such conduits, manholes and poles. The city council shall grant a hearing on the application in the manner provided by law for permission to erect poles, piers, abutments and other fixtures in public ways. (Rev. Ords. 1973, § 16-29)

Sec. 23-35. Authority of city to require moving, repairing.

Whenever the city shall construct, enlarge, relocate, repair or alter the streets, ways or bridges, the sewers, water pipes or other public works in streets, ways and bridges where conduits and wires are laid, which in the opinion of the city council require the removing or changing the location of such conduits, wires and fixtures appertaining thereto, or the repairing thereof, such removing, changing and repairing shall be done without delay at the expense of the person owning or operating the same. (Rev. Ords. 1973, § 16-30)

Sec. 23-36. Permission required to relocate, change.

Whenever underground conduits have once been laid in the streets and ways of the city, they shall not be removed, relocated or changed without permission from the city council. (Rev. Ords. 1973, § 16-31)

Sec. 23-37. Reservation of space for city use; rights and privileges of city therein.

In all underground conduits such sufficient and necessary space as shall be determined by the city council shall be reserved free of expense for the use of the fire, police and other telegraph and telephone signal wires belonging to the city and used exclusively for municipal purposes, and the city, by its inspector of wires and other proper servants, shall be allowed access to such conduits at all times. The city shall be allowed equal facilities and privileges with others using such conduits in putting in, taking out and repairing wires. (Rev. Ords. 1973, § 16-32)

Sec. 23-38. Preliminary review by commissioner of public works.

(a) No petition for permission to erect poles, piers, abutments, conduits or other fixtures upon, along or under any public ways or across any public grounds shall be heard by the city council until the commissioner of public works has been given the opportunity to review the plans and petition and comment thereon.

(b) Persons seeking such permission shall deliver a copy of such a petition to the commissioner prior to

submitting it to the city council and shall include a copy of the comments of the commissioner upon filing such a petition with the city council.

(c) Notwithstanding the foregoing requirement, in the event of delay or failure of the commissioner to provide comments on such a petition within thirty (30) days from the date that the petition was received by the commissioner, the petition may be filed with the city council if accompanied by a sworn statement setting out the date that the petition was delivered to the commissioner. (Ord. No. Z-102, 02-06-12)

Secs. 23-39—23-51 Reserved.