

SUBSTITUTE NO. 1 TO ORDINANCE NO. 26-002

AN ORDINANCE TO AMEND CHAPTER 45 OF THE CITY CODE TO EMPOWER THE COMMISSIONER OF THE DEPARTMENT OF LICENSES AND INSPECTIONS TO ISSUE CIVIL PENALTIES OR TAKE OTHER ENFORCEMENT ACTION AGAINST CABLE, TELECOMMUNICATION, AND OTHER UTILITY PROVIDERS FOR FAILING TO REMEDIATE UTILITY WIRES

**Rev. 1
#0165**

Sponsor:

**Council
Member
Oliver**

WHEREAS, Telegraph, Telephone, Electric Utility, and other Telecommunications providers utilize public rights of way throughout the City; and

WHEREAS, Telegraph, Telephone, Electric Utility, and other Telecommunications providers are bound by the provisions of Title 26 of the Delaware Code pertaining to the safe placement and maintenance of wires so as in no way to interfere with the safety or convenience of persons traveling on or over the roads and highways; and

WHEREAS, City residents continue to observe an increase of unattended and unsafe utility wires in the public right of way; laying across sidewalks, in roadways, hanging loosely from utility poles, drooping within reach of the public sidewalk, and emerging from underground conduit and left within the public right of way; and

WHEREAS, Utility Providers owe a duty to the citizens of the City of Wilmington to keep the public rights of way throughout the city free of unsafe utility wires, and may be liable for any harm caused by or attributable to unsafe utility wires; and

WHEREAS, Council has determined that except in cases of a service interruption for customers, Utility Providers have repeatedly failed to promptly remediate these unsafe conditions, leaving wires laying in public rights of way and city green spaces.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON
HEREBY** **ORDAINS:**

SECTION 1. Chapter 45 of the City Code is hereby amended with the underlined language as follows:

Sec. 45-7. Utility Wire Safety.

(a) Definitions

- 1) "Public right-of-way" shall mean all of the public streets, alleys, highways and public thoroughfares of the city, including but not limited to: all public sidewalks, walking paths, bicycle paths, and any other city owned parkland or green space which is held open to the public.
 - 2) "Unsafe Utility Wire" shall mean any Utility Wire that is unattended and interferes with the safety or convenience of persons traveling on or over the public right of way regardless of whether or not the wire is in active service. Unsafe Utility Wire shall include, but is not limited to:
 - i. any overhead utility wire which is not secured at both ends leaving a loose end hanging freely, or
 - ii. any overhead utility wire placed less than 18 feet above any road crossing as required under Title 26 of the Delaware Code, or which is placed at a height which interferes or impedes the public right of way
 - iii. any overhead wire where one end of the wire is left to hang freely from a utility pole or post, or
 - iv. any underground cable or conduit, exposed above ground, and impeding the public Right of Way.
 - 3) "Utility Provider" shall mean any party that provides telegraph, telephone, electric, or other telecommunications services, and is responsible for the installation, maintenance, or ownership of the poles and wires or cable or underground conduits necessary for the provision of such services.
 - 4) "Utility Wires" shall mean any wire or cable or underground conduit used for the provision of electricity, cable television, telephone, internet, or similar telecommunication service
- (b) Utility Providers shall maintain Utility Wires owned or maintained by the Utility Provider in such a way so as not to interfere with the Public Right of Way. Utility Wires which impede the Public Right of Way shall be deemed Unsafe Utility Wires.
- 1) The provisions of this section shall not apply to:
 - i. Utility Wires knocked down or otherwise dislodged or damaged due to severe weather or similar circumstances, provided that any Unsafe Utility Wires shall be remediated within 15 business days from the date of the weather event causing such damage or cancellation of a State-of-

Emergency declared due to the inclement weather event causing such damage.

- ii. Utility Wires located within active construction zones where such wires may temporarily impede upon the Public Right of Way provided that all wires are secured and clearly marked at the end of the work day, further provided that any Unsafe Utility Wires shall be appropriately remediated within 15 business days from the date of completion of construction.
 - iii. Utility Wires in the process of being installed or removed, and a representative of the Utility Provider or their authorized agent is present.
 - iv. Utility Wires which exclusively impede upon private property and are not within the Public Right of Way.
- (c) It shall be a civil violation of this Code for a Utility Provider to fail to remediate or otherwise respond to notice of an Unsafe Wire within 10 business days from the date of notice provided subsection (d) punishable by a fine of \$250 for each week the Unsafe Wire condition remains.
- 1) Presumptions. — There shall be a rebuttable presumption that the Utility Provider providing service via the Utility Wire declared Unsafe by the Commissioner of Licenses and Inspections, or their designee, is responsible for the placement and maintenance and shall therefore be held prima facie responsible for such violation, unless the Utility Provider cited can furnish evidence that they are not the owner of, or otherwise responsible for the Utility Wire.
 - 2) The City will use all available resources to identify the owner of Unsafe Utility Wires, however, in the event notice is provided to the incorrect Utility Provider, that Provider shall notify the Commissioner of Licenses and Inspections that they are not the owners of the Unsafe Utility Wire, and assist in identifying the appropriate Utility Provider.
 - 3) Appeals of civil violations issued pursuant to this section shall be as provided in Sec. 13-3 of this Code.
 - 4) Utility Providers shall provide prompt written notice to the Commissioner of Licenses and Inspections if they are unable to remediate Unsafe Utility Wires within 15 days due to a major storm or other natural disaster that requires the Utility Provider to deploy resources to another region.

- (d) Enforcement: The department of Licenses and Inspections shall investigate and document all reports of Unsafe Utility Wires. Upon confirmation of an Unsafe Utility Wire:
- 1) The Department of Licensees and Inspections shall provide written notice including photographic evidence of Unsafe Utility Wires to the responsible Utility Provider via first class mail to the mailing address on file with the Cable, Video and Telecommunications Commission or such other address provided by a Utility Provider to the Commissioner of Licensees and Inspections for the purpose of reporting.
 - i. In addition to the address of record with the Commission, Utility Providers may provide supplemental communication channels to be used for reporting. Supplemental communication channels may include a secondary physical mailing address, an official email address.
 - ii. failure to provide notification via a supplemental communication channel shall not excuse failure to comply with the Utility Provider's obligations imposed by this Section.
 - 2) Utility Providers shall complete Unsafe Utility Wire remediation within 15 business days from the date of notice.
- (e) In addition to any civil penalties provided for by this section, the Commissioner of Licenses and Inspections is empowered to take any other actions reasonably necessary to ensure Utility Providers remediate Unsafe Utility Wires within the City including: suspension or denial of any permit application or issuance of a stop work order for any ongoing work by the Utility Provider or their subcontractors.

SECTION 2. This Ordinance shall be effective upon its passage by City Council and approval by the Mayor.

First Reading January 15, 2026
 Second Reading January 15, 2026
 Third Reading

Passed by City Council,

President of City Council

Approved as to form this 4
day of March, 2026.



Assistant City Solicitor
John D. Hawley, Esq.

ATTEST: _____
City Clerk

Approved this ___ day of _____, 2026.

Mayor

SYNOPSIS: This Ordinance empowers the Department of Licenses and Inspections to document cable television, telecommunications, or similar utility wires and cables which impede the public right of way and to provide notice to the service providers responsible. The Department is further empowered to issue civil penalties to service providers or to take other reasonable steps to ensure the public right of way is clear of wires and cables in the event the service provider fails to take steps to eliminate the obstruction within 10 days of notice from the Department.

FISCAL IMPACT STATEMENT: The Fiscal impact of this ordinance is anticipated to be de minimis.