

## Chapter 171

### UTILITY POLES, WIRES AND LINES

**[HISTORY: Adopted by the Borough Council of the Borough of Chester Heights as indicated in article histories. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Building construction — See Ch. 61.  
Plumbing — See Ch. 135.  
Sewers — See Ch. 149.  
Subdivision and land development — See Ch. 162.

#### ARTICLE I

##### **American Telephone and Telegraph Company [Adopted 9-8-1947 by Ord. No. 15]**

##### **§ 171-1. Grant of permission to construct and operate lines.**

Permission be and is hereby granted to the American Telegraph and Telephone Company of Pennsylvania, its successors and assigns, to construct, operate and maintain its lines of telephone and telegraph including the necessary conduits, ducts, manholes and fixtures in, under, through, across and along the public streets, alleys and highways within the present or future limits of the Borough of Chester Heights, County of Delaware, and State of Pennsylvania and to use the underground facilities of other companies and permit other companies that possess authority to operate within said Borough to use the underground facilities under such arrangements as the two companies may agree to, provided the following.

##### **§ 171-2. Approval of plans required.**

Whenever said company shall desire to lay down or construct any conduits, cables, manholes or fixtures, it shall present a plan or plans showing the location, number and size thereof to the Chairman of the Highway Committee, who is hereby authorized and empowered for and on behalf of Council, to approve or disapprove as to location, which plan or plans, or copy thereof, with approval endorsed thereon, shall be filed with the Secretary of Council before any work thereon is started.

##### **§ 171-3. Replacement of pavement.**

The construction of conduits, cables, manholes and fixtures under the provision of this article shall be subject to the supervision of the Chairman of the Highway Committee; and said company shall replace and properly relay that portion of any sidewalk or street pavement which may have been displaced or damaged by it in the construction and maintenance of its underground facilities; and in the installation and maintenance of its underground system, said company shall not open or encumber more of any street, alley or highway than will be necessary to enable it to perform the work with proper economy and efficiency.

**§ 171-4. Borough use of space in conduits.**

Space in the conduits constructed under the provisions of this article may be used free of charge for the purpose of carrying wires of any fire alarm or police telegraph system owned and maintained by said Borough, provided said wires are placed and maintained in such manner as may be prescribed by said company and that no use shall be made of said space by said Borough which will result in interfering with or impairing the operation or use of said company's property or service or will endanger its property or employees.

**§ 171-5. Maintenance of conduits and appurtenances.**

Said company shall maintain all conduits, cables, manholes and fixtures and all other appurtenances erected or constructed under the provisions of this article in good and safe order and condition and shall at all times fully indemnify, protect and save harmless said Borough from and against all actions, claims, suits, damages and charges and against all loss and necessary expenditures arising from the erection, construction and maintenance of its system or from its neglect or failure to maintain said apparatus in good and safe order and condition.

**§ 171-6. Nonexclusivity of franchise.**

Nothing contained in this article shall be construed to grant unto said company any exclusive right or to prevent a grant of similar privileges to other companies.

**§ 171-7. Compliance with other provisions.**

Said company shall be governed by all legal ordinances of a general nature, particularly Ordinance Number 11,<sup>1</sup> affecting its operations in the Borough of Chester Heights that are now in force and enacted under and by virtue of the police powers of said Borough or the laws of the state, as well as all such ordinances hereafter so enacted, provided the terms, conditions and regulations prescribed therein do not impair or abridge the permission contained in this article.

**§ 171-8. Acceptance of terms.**

Said company shall, under its seal and by its proper officers, within 30 days from the date of the final enactment of this article, signify in writing its acceptance of all the terms, conditions, regulations and restrictions herein contained, in default of which this article shall become null and void and of no effect.

**§ 171-9. Payment of advertising and printing fees.**

All legal advertising or printing fees incurred by the Borough of Chester Heights, in connection with the passage of this article, shall be paid by said company.

**ARTICLE II**  
**Permits**  
**[Adopted 2-2-1948 by Ord. No. 16]**

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1. Editor's Note: Ordinance Number 11 was repealed 2-2-1948 by Ord. No. 16. See Article II, Permits, of this chapter.

**§ 171-10. Submission of plans required; issuance of permits; fees.**

It shall not be lawful for any telegraph, telephone or electric light company, firm, or individual to erect or cause to be erected any poles, or pole lines and conduits, over, in, upon or under any public roads, street or highway within the limits of the Borough of Chester Heights, unless the company, firm or individual seeking to erect said pole, or poles, pole line, or pole lines and conduits shall first submit a plan or plans showing the location, number and size thereof to the Borough Council for its approval. Upon approving said plan Borough Council shall issue a permit to the applicant to erect a pole or poles, pole line or pole lines and conduits, in accordance with said plan; provided, however, that before said permit shall be issued said company, firm or individual shall pay to the Borough the sum of \$0.50 for each pole, and \$3 for each mile or fraction thereof of conduits, for the erection and construction of which application has been made, and no pole or poles, pole line or pole lines and conduits shall be erected or constructed until such payments shall have been made.

**§ 171-11. Yearly statement required; fees; issuance of permits.**

In all cases where poles, pole lines and conduits have heretofore been erected and whenever in pursuance of this article any poles, pole lines or conduits are hereafter over in, upon or under any public road, street or highway within the limits of the Borough of Chester Heights, it shall be the duty of such company, firm or individual owning or leasing such poles, pole lines and conduits to submit to Borough Council on or before the first day of June in each and every year hereafter a statement of the number and location of poles, pole lines and conduits so erected and to pay to the Borough the sum of \$0.50 for each pole, and \$3 for each mile or fraction thereof of conduits and thereupon the Borough Council shall issue a permit for the poles, pole lines or conduits so paid for as aforesaid, which permit shall entitle the company, firm or individual to maintain said poles, pole lines, and conduits, subject to the provisions of this article for the term of one year from the first day of June of that year.

**§ 171-12. Violations and penalties.**

If any company, firm or individual shall violate any of the provisions of this article, Borough Council may notify said company, firm or individual to remove said poles, pole lines and conduits within 10 days after such notice, and upon failure of said company, firm or individual to remove said poles, pole lines and conduits, it, or they, shall pay to the Borough the sum of \$10 for every 10 days said poles, pole lines and conduits are allowed to remain after the expiration of said notice; said sum to be recovered in summary proceedings before any District Justice of Delaware County Pennsylvania, as fines and penalties are now recoverable by law.

**§ 171-13. Inspections.**

It shall be the duty of the Chief of Police of the Borough at least once a year to cause a thorough inspection of all telegraph, telephone and electric light pole lines and conduits erected over, in, upon or under the roads, streets and highways within the limits of the Borough, and if any poles, pole lines and conduits shall be found to be defective, unsuitable or unsound, he shall notify the owners to forthwith repair or replace the same, and if the owner or owners shall neglect to do so the owner or owners shall be liable to pay a fine to the Borough of \$5 for each and every day during which said neglect or refusal continues, to be recovered in summary proceedings before

any District Justice of Delaware County, Pennsylvania, as fines and penalties are by law recoverable.

**§ 171-14. Marking and replacement of poles.**

All telegraph, telephone and electric light poles now or hereafter erected in the Borough shall be marked by the names or initials of the owners thereof and each pole shall bear a distinctive number legibly marked thereon; and whenever any pole is placed or replaced in or on any highway, street or road within the limits of the Borough, the owners shall immediately, at their own cost, repair and put in good condition the highway, street or road at and around such pole or opening made or dug to the satisfaction of Borough Council; and no stump or pole or opening or hole where any pole has been or is to be shall be left in any highway, street or road, but such stump shall be removed and all holes shall be well filled in and repaired with like material as the highway, street or road surrounding such pole. Any company, firm or individual violating any of the provisions of this section shall forfeit and pay to the Borough the sum of \$10 for each offense to be recovered in summary proceedings before any District Justice of Delaware County, Pennsylvania, as fines and penalties are now by law recoverable.

**§ 171-15. Posting of signs and advertisements restricted.**

It shall be unlawful for any person or persons to place upon any telegraph, telephone or electric light pole within the limits of the Borough any printed, painted or written sign, showbill, placard, circular or advertisement or announcement of any description whatsoever. Any person violating this section shall forfeit and pay to the Borough the sum of \$5 for each offense to be recovered in summary proceedings before any District Justice in Delaware County, Pennsylvania, as fines and penalties are now by law recoverable.

ARTICLE III

**Bell Telephone Company**

**[Adopted 9-14-1953 by Ord. No. 24]**

**§ 171-16. Grant of permission to construct and operate lines.**

Permission be and is hereby granted to the Bell Telephone Company of Pennsylvania, its successors and assigns, to construct, maintain and operate its posts, poles, cables, wires and all other necessary overhead apparatus on, over and along, and its conduits, ducts, mains, pipes, cables, wires, manholes, terminal and distributing poles, and all other necessary underground appliances on, in, under and through the streets, alleys and highways within the present or future limits of the Borough of Chester Heights, County of Delaware, State of Pennsylvania; to use the property of other companies and to permit other companies that possess authority to operate within the limits of said Borough to use its property, upon such arrangements as the two companies may agree to, provided the following.

**§ 171-17. Pole requirements; encumbrance of streets.**

All poles erected by said company shall extend not less than 20 feet above the surface of the ground and shall be so located as in no way to interfere with the safety or convenience of persons traveling on or over said streets, alleys and highways, and in the installation and maintenance of its underground system, said company shall not open or encumber more of any street, alley of

highway than will be necessary to enable it to perform the work with proper economy and efficiency.

**§ 171-18. Approval of plans required.**

Whenever said company shall desire to erect, lay down or construct any poles, conduits or manholes it shall present a plan or plans showing the location, number and size thereof to the Chairman of the Street Committee, who is hereby authorized and empowered for and on behalf of Council, to approve or disapprove as to location, which plan or plans, or copy thereof, with approval endorsed thereon, shall be filed with the Secretary of Council before any work shown thereon is started. In case said Chairman disapproves any plan or plans, he shall designate thereon, by the use of appropriate words or marks, or both, some other location suitable for the purpose of said company.

**§ 171-19. Borough use of space in conduits.**

Space on the poles erected and in the conduit constructed under the provisions of this article may be used, free of charge, for the purpose of carrying wires of any fire alarm or police telegraph system owned and maintained by said Borough, provided said wires are placed and maintained in such a manner as may be prescribed by said company and that no use shall be made of such space by said Borough which will result in interfering with or impairing the operation or use of said company's property or service or will endanger its property or employees.

**§ 171-20. Maintenance of posts and apparatuses.**

Said company shall maintain all posts, poles, cables, wires, conduits, ducts, mains, pipes, manholes and all other apparatus erected or constructed under the provisions of this article, in good and safe order and condition, and shall at all times fully indemnify, protect and save harmless said Borough from and against all actions, claims, suits, damages and charges, and against all loss, and necessary expenditure arising from the erection, construction and maintenance of its system or from its neglect or failure to maintain said apparatus in good and safe order and condition.

**§ 171-21. Nonexclusivity of franchise.**

Nothing in this article shall be construed to grant unto said company any exclusive right, or to prevent a grant of similar privileges to other companies.

**§ 171-22. Compliance with other provisions.**

Said company shall be governed by all legal ordinances of a general nature affecting its operations in said Borough of Chester Heights that are now in force and enacted under and by virtue of the police powers of said Borough or the laws of the state, as well as all such ordinances hereafter so enacted, provided the terms, conditions and regulations prescribed therein do not impair or abridge the permission contained in this article.

**§ 171-23. When effective.**

This article shall take effect at the expiration of 30 days from the date when a copy shall have

been filed in the office of the Secretary of the Pennsylvania Public Utility Commission; provided that if the Commission shall, prior to the expiration of such period, institute a proceeding under the provisions of Section 911 of the Public Utility Law affecting its validity, this article shall become effective only upon approval by said Commission.

**§ 171-24. Acceptance of terms.**

Said company, shall, under its seal and by its proper officers, within 60 days from the date of the final enactment of this article, signify in writing its acceptance of all the terms, conditions, regulations and restrictions herein contained, in default of which this article shall become null and void and of no effect.

**§ 171-25. Payment of advertising and printing fees.**

All legal advertising or printing fees incurred by the Borough of Chester Heights, County of Delaware, State of Pennsylvania, in connection with the passage of this article, shall be paid by said company.

ARTICLE IV  
**Erection of Aboveground and Overhead Lines**  
[Adopted 2-5-1973 by Ord. No. 67]

**§ 171-26. Placement in village center restricted.**

From and after the effective date of this article, no utility shall erect any utility line above ground in the area designated as the village center in the Comprehensive Plan, or within 250 yards of such area.

**§ 171-27. Height restrictions.**

From and after the effective date of this article, no utility shall erect any overhead utility lines at a height above the ground in excess of 45 feet.