

Chapter 5.64

LIGHT FRANCHISE

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5.64.010 Definitions.

(1) Where used in this franchise ("franchise") the following terms shall mean:

(a) "City" means the city of Port Orchard, a municipal corporation of the state of Washington, and its respective successors and assigns.

(b) "Facilities" means any and all electric transmission and distribution systems, including, but not limited to, poles (with or without crossarms), wires, lines, conduits, cables, communication and signal lines, braces, guys, anchors, vaults and meter-reading devices, and any other equipment, appliances, attachments, appurtenances and other items necessary or convenient to any of the foregoing, whether the same be located over or under ground.

(c) "Franchise area" means any, every and all of the roads, streets, avenues, alleys, highways,

grounds and public places of the city as now laid out, platted, dedicated or improved; and any and all roads, streets, avenues, alleys, highways, grounds and public places that may hereafter be laid out, platted, dedicated or improved within the present limits of the city and as such limits may be hereafter extended.

(d) "Puget" means Puget Sound Energy, Inc., a Washington corporation, and its respective successors and assigns.

(e) "Ordinance" means this Ordinance No. 028-16, which sets forth the terms and conditions of this franchise. (Ord. 028-16 § 2).

5.64.020 Facilities within the franchise area.

(1) The city does hereby grant to Puget the right, privilege, authority and franchise to:

(a) Set, erect, construct, support, attach, connect and stretch facilities between, maintain, repair, replace, operate and use facilities in, upon, over, under, along, across and through the franchise area for purposes of transmission, distribution and sale of energy for power, heat, light and any other purpose for which energy can be used; and

(b) Charge and collect tolls, rates and compensation for such energy and such uses.

(2) This franchise shall not convey any right to Puget to install its facilities on, under, over or across, or to otherwise use, any city-owned or leased properties of any kind that are located outside the franchise area. Further, this franchise shall not govern or apply to facilities located on Puget owned or leased properties or easements (whether inside or outside of the franchise area, whether granted by a private or public entity, and whether now existing or hereafter acquired) and such facilities are not, and will not be deemed to be, located pursuant to rights derived from this franchise or pursuant to rights otherwise granted by the city. (Ord. 028-16 § 3).

5.64.030 Noninterference of facilities.

Puget's facilities shall be maintained within the franchise area so as not to unreasonably interfere with the free passage of traffic and in accordance with laws of the state of Washington. Whenever it shall be necessary for Puget, in the exercise of its rights under this franchise, to make any excavation in the franchise area, Puget shall, upon completion of such excavation, restore the surface of the franchise area, as nearly as practicable, to the same condition it was in prior to such excavation. (Ord. 028-16 § 4).

5.64.040 Relocation of facilities.

(1) Whenever the city causes the grading or widening of the franchise area (for purposes other than those described in subsection (2) of this section), and such grading or widening requires the relocation of Puget's then existing facilities within the franchise area, the city shall:

- (a) Provide Puget, within a reasonable time prior to the commencement of such grading or widening, written notice requesting such relocation; and
- (b) Provide Puget with reasonable plans and specifications for such grading or widening.

After receipt of such notice and such plans and specifications, Puget shall relocate such facilities within the franchise area at no charge to the city. If the city requires the subsequent relocation of any facilities within five years from the date of relocation of such facilities pursuant to this subsection (1), the city shall bear the entire cost of subsequent relocation.

(2) Whenever any person or entity, other than the city, requires the relocation of Puget's facilities to accommodate the work of such person or entity within the franchise area, or, whenever the city requires the relocation of Puget's facilities within the franchise area for the benefit of any person or entity other than the city, then Puget shall have the right as a condition of such relocation to require such person or entity to:

- (a) Make payment to Puget, at a time and upon terms acceptable to Puget, for any and all costs and expenses incurred by Puget in the relocation of Puget's facilities; and
- (b) Indemnify and save Puget harmless from any and all claims and demands made against it on account of injury or damage to the person or property of another arising out of or in conjunction with the relocation of Puget's facilities, to the extent such injury or damage is caused by the negligence of the person or entity requesting the relocation of Puget's facilities or the negligence of the agents, servants or employees of the person or entity requesting the relocation of Puget's facilities.

(3) Any condition or requirement imposed by the city upon any person or entity, other than the city or Puget (including, without limitation, any condition or requirement imposed pursuant to any contract or in conjunction with approvals or permits for zoning, land use, construction or development), which requires the relocation of Puget's facilities shall be a required location for purposes of subsection (2) of this section.

(4) Nothing in this section shall require Puget to bear any cost or expense in connection with the location or relocation of any facilities then existing pursuant to easement or other rights not derived

from this franchise, regardless of whether such easement or other rights are on public or private property and regardless of whether this franchise co-exists with such easement or other rights. (Ord. 028-16 § 5).

5.64.050 Indemnification.

Puget shall indemnify and save the city harmless from any and all claims and demands made against it on account of injury or damage to the person or property of another, to the extent such injury or damage is caused by the negligence of Puget or its agents, servants or employees in exercising the rights granted Puget in this franchise; provided, however, that in the event any such claim or demand be presented to or filed with the city, the city shall promptly notify Puget thereof, and Puget shall have the right, at its election and at its sole cost and expense, to settle and compromise such claim or demand; provided further, that in the event any suit or action be begun against the city based upon any such claim or demand, the city shall likewise promptly notify Puget thereof, and Puget shall have the right, at its election and its sole cost and expense, to settle and compromise such suit or action, or defend the same at its sole cost and expense, by attorneys of its own election. (Ord. 028-16 § 6).

5.64.060 Moving buildings within the franchise area.

(1) If any person or entity obtains permission from the city to use the franchise area for the moving or removal of any building or other object, the city shall, prior to granting such permission, require such person or entity to make any necessary arrangements with Puget for the temporary adjustment of Puget's wires to accommodate the moving or removal of such building or other object. Such necessary arrangements with Puget shall be made, to Puget's satisfaction, not less than 14 days prior to the moving or removal of the building or other object. In such event, Puget shall, at the expense of the person or entity desiring to move or remove such building or other object, adjust any of its wires which may obstruct the moving or removal of such building or other object; provided, that:

- (a) The moving or removal of such building or other object which necessitates the adjustment of wires shall be done at a reasonable time and in a reasonable manner so as not to unreasonably interfere with Puget's business;
- (b) Where more than one route is available for the moving or removal of such building or other object, such building or other object shall be moved or removed along the route which causes the least interference with Puget's business; and
- (c) The person or entity obtaining such permission from the city to move or remove such

building or other object shall be required to indemnify and save Puget harmless from any and all claims and demands made against it on account of injury or damage to the person or property of another arising out of or in conjunction with the moving or removal of such building or other object, to the extent such injury or damage is caused by the negligence of the person or entity moving or removing such building or other object or the negligence of the agents, servants or employees of the person or entity moving or removing such building or other object. (Ord. 028-16 § 7).

5.64.070 Default.

If Puget fails to comply with the provisions of this franchise, the city may serve upon Puget a written order to so comply within 60 days from the date such order is received by Puget. If Puget is not in compliance with this franchise after expiration of the 60-day period, the city may, by ordinance, declare an immediate forfeiture of this franchise; provided, however, if any failure to comply with this franchise by Puget cannot be corrected with due diligence within the 60-day period (Puget's obligation to comply and to proceed with due diligence being subject to unavoidable delays and events beyond its control), then the time within which Puget may so comply shall be extended for such time as may be reasonably necessary and so long as Puget commences promptly and diligently to effect such compliance. (Ord. 028-16 § 8).

5.64.080 Nonexclusive franchise.

This franchise is not and shall not be deemed to be an exclusive franchise. This franchise shall not in any manner prohibit the city from granting other and further franchises over, upon, and along the franchise area which do not interfere with Puget's rights under this franchise. This franchise shall not prohibit or prevent the city from using the franchise area or affect the jurisdiction of the city over the same or any part thereof. (Ord. 028-16 § 9).

5.64.090 Franchise term.

This franchise is and shall remain in full force and effect for a period of 30 years from and after the effective date of the ordinance codified in this chapter; provided, however, Puget shall have no rights under this franchise nor shall Puget be bound by the terms and conditions of this franchise unless Puget shall, within 60 days after the effective date of the ordinance codified in this chapter, file with the city its written acceptance of the ordinance. (Ord. 028-16 § 10).

5.64.100 Assignment.

Puget shall have the right to assign its rights, benefits and privileges in and under this franchise. Any assignee shall, within 30 days of the date of any assignment, file written notice of the assignment with the city together with its written acceptance of all terms and conditions of this

franchise. Notwithstanding the foregoing, Puget shall have the right, without such notice or such written acceptance, to mortgage its rights, benefits and privileges in and under this franchise to the trustee for its bondholders. (Ord. 028-16 § 11).

5.64.110 Miscellaneous.

(1) If any term, provision, condition or portion of this franchise shall be held to be invalid, such invalidity shall not affect the validity of the remaining portion of this franchise which shall continue in full force and effect. The headings of sections and paragraphs of this franchise are for convenience of reference only and are not intended to restrict, affect or be of any weight in the interpretation or construction of the provisions of such sections or paragraphs.

(2) This franchise may be amended only by written instrument, signed by both parties, which specifically states that it is an amendment to this franchise and is approved and executed in accordance with the laws of the state of Washington. Without limiting the generality of the foregoing, this franchise (including, without limitation, POMC [5.64.050](#)) shall govern and supersede and shall not be changed, modified, deleted, added to, supplemented or otherwise amended by any permit, approval, license, agreement or other document required by or obtained from the city in conjunction with the exercise (or failure to exercise) by Puget of any and all rights, benefits, privileges, obligations or duties in and under this franchise, unless such permit, approval, license, agreement or other document specifically:

(a) References this franchise; and

(b) States that it supersedes this franchise to the extent it contains terms and conditions which change, modify, delete, add to, supplement or otherwise amend the terms and conditions of this franchise.

(3) In the event of any conflict or inconsistency between the provisions of this franchise and the provisions of any such permit, approval, license, agreement or other document, the provisions of this franchise shall control.

(4) This franchise is subject to the provisions of any applicable tariff now or hereafter on file with the Washington Utilities and Transportation Commission or its successor. In the event of any conflict or inconsistency between the provisions of this franchise and such tariff, the provisions of such tariff shall control.

(5) In the event any suit or action is commenced by the city against Puget or by Puget against the city in a court of competent jurisdiction: (a) to enforce the terms and conditions of this franchise; or

(b) on account of any default under or breach of this franchise, the prevailing party in such suit or action shall be entitled to recover, in addition to all other relief, from the other party all reasonable attorney's fees incurred by the prevailing party in connection with such suit or action.

(6) If at any time the city shall vacate any portion of the franchise area where facilities are installed at the time of said vacation, and said vacation shall be for the purpose of acquiring the fee or other property interest in said portion of the franchise area by a person or entity other than the city, then the city shall give Puget advance written notice of the same to allow Puget the opportunity to review and comment on the proposed vacation. Thereafter, the city shall, in its vacation procedure, unless otherwise waived in writing by Puget, reserve an easement to Puget for Puget's facilities based on the input received from Puget. (Ord. 028-16 § 12).

The Port Orchard Municipal Code is current through Ordinance 009-25, passed July 8, 2025.

Disclaimer: The city clerk's office has the official version of the Port Orchard Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

City Website: <https://www.cityofportorchard.us/>

City Telephone: (360) 876-4407

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